THE TRIALS AT LARGE OF *THOMAS HARDY*, AND OTHERS; FOR HIGH TREASON,

WHICH BEGAN

On SATURDAY, OCTOBER 25, 1794.

AT THE

OLD BAILEY.

NOTTINGHAM:
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THE

TRIALS, &c.

THE firm and manly demeanour with which the following Priſoners, indicted for High Treaſon, appeared to their arraignments, muſt conſiderably intereſt the Public in their anxious expectations of their innocence being ſubſtantiated. To ſee fellow-ſubjects, under ſuch ſevere and atrocious charges, meet the laws of their country with fortitude, untainted with intemperate audacity, excite equally our reſpect for their behaviour, and our confidence in their being found guiltleſs of the crimes imputed to their conduct, or their principles. We have, therefore, the pleaſing hope of the enſuing trials proving, that government have not that cauſe of alarm, which has been entertained from ſuppoſing there were ſuch atrocious characters as were capable of any treaſonable deſign againſt the King, or the Conſtitution of their Country.

Old Bailey, Saturday Octob. 25, 1794.

For the Trials of the Priſoners, the Commiſſion conſiſted of the following

JUDGES:

Sir James Eyre, Lord Preſident,
Chief Baron Macdonald,
Baron Hotham,
Judge Buller,
Judge Groſe, &c. &c.

At ten o'clock, the Lord Preſident, accompanied by the other Judges, the Lord Mayor, the Recorder. and ſix Aldermen, took their ſeats on the bench.

After the uſual Proclamation, Mr. Kirby, the keeper of Newgate, was ordered to bring to the bar, all the Priſoners in his cuſtody, againſt whom the Grand Jury had found their

Firſt Bill of Indictment; viz.

Thomas Hardy, late of Weſtminſter, in the county of Middleſex, ſhoe-maker.

John Horne Tooke, late of Wimbledon, in the county of Surrey, clerk.

John Auguſtus Bonney, late of the pariſh of St. Giles in the Fields, in the county of Middleſex, aforeſaid, gentleman.

Stewart Kyd, late of London, Eſq.

Jeremiah



Jeremiah Joyce, of the pariſh of St. Mary-le-bone, otherwiſe Marybone, in the county of Middleſex, aforeſaid, gentleman.

Thomas Holcroft, late of the pariſh of St. Mary-le-bone, otherwiſe Marybone, in the county of Middleſex, aforeſaid, gentleman.

John Richter, late of Weſtminſter, in the ſaid county of Middleſex aforeſaid, gentleman.

John Thelwall, late of Weſtminſter, in the county of Middleſex, aforeſaid, gentleman.

John Baxter, late of the Pariſh of St. Leonard, Shoreditch, in the county of Middleſex aforeſaid, labourer.

N. B. Thomas Wardle, Matthew Moore, and Richard Hodgſon, who are alſo indicted, are not in cuſtody.

Chief Juſtice Eyre—"Mr. Kirby, are all the Priſoners at the Bar?"

Mr. Kirby—"My Lord, all are at the bar who are in my cuſtody."

Chief Juſtice Eyre—"Are the Counſel for the priſoners preſent?"

Mr. Gurney—"My Lord, Mr. Erſkine is not preſent, though he is expected in a very few minutes."

The Court waited ſome minutes.

The

The windows, which are behind the bar, where the Priſoners were, having been prevouſly let down by the Lord Preſident's orders, to admit a ſtrong current of air, the follwing obſervations were made by

Mr. H. Tooke—"My Lord, I beg leave to repreſent to you, that we have come out of an extreme cloſe hole; and, if we are to continue long expoſed to this door and window, on our backs (the Lord Mayor, before the ſitting of the Court, had requeſted the Sheriffs to give orders to draw down the ſaſh of one of the windows behind the bar), we ſhall have no voices before we leave this place. We have come out of a cloſer cuſtody than, I believe, ever was before known, and now ſtand expoſed to this window. At the ſame time, I do not wiſh to diſcompoſe the Court, but only requeſt that we may be diſmiſſed from this ſituation as ſoon as poſſible."

Chief Juſtice Eyre—"If you are now prepared to plead to your indictment, you may be diſmiſſed almoſt immediately. I am waiting for your Counſel, that I may know whether he has any thing to ſay in your behalf, previous to your arraignment.

Mr. H. Tooke—"My Lord, in a great meaſure am I prevented from being now able to ſay any thing on the ſubject of the Indictment, from the circumſtance of our not having ten clear days allowed by Act of Parliament, to perſons in our ſituation. By the change of cuſtody, a whole day has been compleatly loſt to us; in conſequence; we have not had an opportunity of converſing with our Counſel. Mr. Erſkine and Mr. Gibbs had engaged themſelves to dine with me on Friday for

for the purpoſe of conferring together on the buſineſs of this day. Notice was given me as late as nine or ten on Thurſday night only, of my intended removal; I was removed by eight o'clock the next morning: it was perfectly impoſſible for me, therefore, to take the advantage of my Counſel's advice, as our arrangements were thus compleatly deſtroyed; and all my papers, which I had collected and arranged in the Tower, thrown into diſorder and confuſion. Your Lordſhip, who never was a priſoner, can have but a very imperfect idea of the change of cuſtody."

Chief Juſtice Eyre—"The Court will be diſpoſed to grant you every accommodation within their power. I conceive it muſt have been owing to yourſelf that you had not the attendance of your Counſel much earlier than Friday. I am very ready to wait until your Counſel comes, to ſee whether he has any thing to ſay previous to your arraignment."

Chief Juſtice Eyre—"Let them be arraigned."

Clerk of the Arraigns—"Thomas Hardy, hold up your hand." [Holds up his hand]. All the reſt of the Priſoners held up their hands, except John Thelwall, who, when deſired to hold up his hand, ſaid,

"My Lord, I think it a part of my duty, an act of juſtice to myſelf and my country, to mention, in this public manner, the hardſhips which we have ſuffered. Not to mention the loſs of a day, I myſelf have to complain of a circumſtance, very detrimental indeed to me. I have been deprived of the benefit of my books and papers, which I had collected together, and arranged in the Tower,

Tower. When we were removed from the Tower, the Sheriffs thought proper not to allow me time ſufficient to take them with me. I do not mean to attach any blame to them, when I mention this, for with great politeneſs they promiſed I ſhould have them ſent me. Afterwards, when I had an opportunity of ſending for them, through the medium of a friend, who was ſending to the Tower for ſome things he wanted, I was refuſed, and received an evaſive anſwer. I was informed, that they could not ſend what I wanted, as I had a number of other things there, and they muſt be ſent for together, as it would be neceſſary to have a ſeparate coach for them. This morning I received a ſecond evaſive anſwer. I mention this circumſtance not with any view of delay, for I am as anxious as any man can be for any thing, to meet the juſtice of my country."

The Indictment was then read by the Clerk of the Arraigns It charged the priſoners, that they being ſubjects of the King, not having the fear of God in their hearts, not weighing the duty of their allegiance, but being moved and ſeduced by the inſtitution of the Devil, with drawing their affection and allegiance from the King, did, on the 1ſt of March laſt, contrive, in concert with other perſons, to diſturb the peace of the Kingdom, to ſubvert the Government, to depoſe the King, and to put him to death.

The Indictment then proceeded to ſpecify, and ſet forth, in nine different counts, the overt acts of the above compaſſings and imaginations.

The following is a complete Copy of the Indictment againſt the Priſoners accuſed of High Treaſon; which we here inſert for the ſatisfaction of the Public:

MIDDLESEX to wit Be it remembered that at a ſpecial ſeſſion of Oyer and Terminer of our Sovereign Lord the King of and for the county of Middleſex holden at the Seſſion Houſe on Clerkenwell Green in the ſaid county on Thurſday the ſecond day of October in the thirty-fourth year of the reign of our Sovereign Lord George the third by the grace of God of Great Britain France and Ireland King Defender of the Faith and ſo forth before the Right Honourable Sir James Eyre Knight Chief Juſtice of our ſaid Lord the King of his Court of Common Pleas the Right Honourable Sir Archibald Macdonald Knight Chief Baron of our ſaid Lord the King of his Court of Exchequer the Honourable Sir Beaumont Hotham Knight one of the Barons of our ſaid Lord the King of his ſaid Court of Exchequer the Honourable Sir Francis Buller Baronet one of the Juſtices of our ſaid Lord the King of his ſaid Court of Common Pleas the Honourable Sir Naſh Groſe Knt one of the Juſtices of our ſaid Lord the King aſſigned to hold the Pleas before the King himſelf the Honourable Sir Soulden Lawrence Knt one other of the Juſtices of our ſaid Lord the King aſſigned to hold Pleas before the King himſelf and others their fellows Juſtices and Commiſſioners of our ſaid Lord the King aſſigned by Letters Patent of our ſaid Lord the King under his Great Seal of Great Britain made to them and others and any three or more of them (of whom one of them the aforeſaid Sir James Eyre Sir Archibald Macdonald Sir Beaumont Hotham Sir Francis Buller Sir Naſh Groſe and Sir Soulden Lawrence our ſaid Lord the

King willed ſhould be one) to enquire by the oath of good and lawful men of the County of Middleſex of all high treaſons in compaſſing or imagining the death of our Lord the King levying war againſt our Lord the King in his realm, or in adhering to the enemies of our ſaid Lord the King in his realm giving to them aid and comfort in his realm or elſewhere and of all miſpriſons of ſuch high treaſons as aforeſaid or of any of them within the county aforeſaid (as well within liberties as without) by whomſoever and in what manner ſoever done committed or perpetrated when how and after what manner and of all other articles and circumſtances concerning the premiſes and every or any of them in any manner whatſoever and the ſaid treaſons and miſpriſons of treaſons according to the laws and cuſtoms of England for this time to hear and determine by the oath of

Benjamin Winthrop Eſq.
John Henry Schneider Eſq.
Edward Ironſide Eſq.
Benjamin Kenton, Eſq.
Rawſon Hart Boddam Eſq.
John Aris Eſq.
William Pardoe Allett Eſq.
John Perry Eſq.
Henry Peter Khuff Eſq.
Thomas Winſlow Eſq.
Thomas Cole Eſq.
Samuel Hawkins Eſq.
George Ward Eſq.

Thomas

Thomas Boddam Eſq.
Joſeph Lancaſter Eſq.
Robert Wilkinſon Eſq.
George Galway Mills Eſq.
Henry Wright Eſq.
John Hatchett Eſq.
Rowland Stephenſon Eſq. and
John Campbell Eſq.

good and lawful men of the county aforeſaid now here ſworn and charged to enquire for our ſaid Lord the King for the body of the ſaid county touching and concerning the premiſes in the ſaid Letters Patent mentioned It is preſented in manner and form as followeth (that is to ſay)

MIDDLESEX TO WIT THE JURORS for our Sovereign Lord the King upon their oath preſent

Thomas Hardy late of Weſtminſter in the county of Middleſex ſhoe-maker

John Horne Tooke late of Wimbledon in the county of Surrey clerk

John Auguſtus Bonney late of the pariſh of St Giles in the Fields in the county of Middleſex aforeſaid gentleman

Stewart Kyd late of London Eſq

Jeremiah Joyce late of the pariſh of St Marv-le-bone otherwiſe Marybone in the county of Middleſex aforeſaid gentleman

Thomas Wardle late of London gentleman

Thomas Holcroft late of the pariſh of St Mary-le-bone otherwiſe Marybone aforeſaid in the county of Middleſex aforeſaid gentleman

John Richter late of Weſtminſter in the ſaid county of Middleſex aforeſaid gentleman

Matthew Moore late of Weſtminſter in the county of Middleſex aforeſaid gentleman

John Thelwall late of Weſtminſter in the county of Middleſex aforeſaid gentleman

Richard Hodgſon late of Weſtminſter in the county of Middleſex aforeſaid hatter and

John Baxter late of the Pariſh of St Leonard Shoreditch in the county of Middleſex aforeſaid labourer

being ſubjects of our ſaid Lord the King not having the fear of God in their hearts nor weighing the duty of their allegiance but being moved and ſeduced by the inſtigation of the devil as falſe Traitors againſt our ſaid Lord the King their ſupreme true lawful and undoubted Lord and wholly withdrawing the cordial love and true and due obedience which every true and faithful ſubject of our ſaid Lord the King ſhould and of right ought to bear towards our ſaid Lord the King and contriving and with all their ſtrength intending traitorouſly to break and diſturb the peace and common tranquility of this kingdom of Great Britain and to ſtir move and excite inſurrection rebellion and war againſt our ſaid Lord the King within this kingdom and to ſubvert and alter the legiſlature rule and government now duly and happily eſtabliſhed in this kingdom and to depoſe our ſaid Lord the King from the royal ſtate title power and government of this kingdom and to bring and put our ſaid Lord the King to death on the firſt day of March in the thirty-third year of the reign of our Sovereign Lord the King

King and on divers other days and times as well before as after at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously with force and arms &c did amongst themselves and together with divers other false traitors whose names are to the said Jurors unknown conspire compass imagine and intend to stir up move and excite insurrection rebellion and war against our said Lord the King within this kingdom of Great Britain and to subvert and alter the Legislature Rule and Government now duly and happily established within this kingdom of Great Britain and to depose our said Lord the King from the royal state title power and government of this kingdom and to bring and put our said Lord the King to death,

AND TO FULFIL perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid they the said *Thomas Hardy*, *John Horne Tooke*, *John Augustus Bonney*, *Stewart Kyd*, *Jeremiah Joyce*, *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwall*, *Richard Hodgson*, and *John Baxter*, as such false traitors as aforesaid with force and arms on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after at the Parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously did meet conspire consult and agree among themselves and together with divers other false traitors whose names are to the said Jurors unknown to cause and procure a Convention and Meeting of divers subjects of our said Lord the King to be assembled and held within this kingdom with intent and in order that the persons to be assembled at such Con-

Convention and Meeting ſhould and might wickedly and traitorouſly without and in defiance of the authority and againſt the will of the Parliament of this kingdom ſubvert and alter and cauſe to be ſubverted and altered the legiſlature rule and government now duly and happily eſtabliſhed in this kingdom and depoſe and cauſe to be depoſed our ſaid Lord the King from the royal ſtate title power and government thereof.

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid and in order the more readily and effectually to aſſemble ſuch Convention and Meeting as aforeſaid for the traitorous purpoſes aforeſaid and thereby to accompliſh the ſame purpoſes they the ſaid *Thomas Hardy*, *John Horne Tooke*, *John Auguſtus Bonney*, *Stewart Kyd*, *Jeremiah Joyce* *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwall*, *Richard Hodgſon* and *John Baxter* as ſuch falſe traitors as aforeſaid together with other falſe traitors whoſe names are to the Jurors aforeſaid unknown on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after with force and arms at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid maliciouſly and traitorouſly did compoſe and write and did then and there maliciouſly and traitorouſly cauſe to be compoſed and written divers books and pamphlets inſtructions reſolutions orders declarations addreſſes and writings and did then and there maliciouſly and traitorouſly cauſe to be publiſhed divers other books pamphlets letters inſtructions reſolutions orders declarations ad-

addreſſes and writings ſo reſpectively compoſed written publiſhed and cauſed to be compoſed written and publiſhed purporting and containing therein among other things incitements encouragements and exhortations to move induce and perſuade the ſubjects of our ſaid Lord the King to chuſe depute and ſend and cauſe to be choſen deputed and ſent perſons as delegates to compoſe and conſtitute ſuch Convention and Meeting as aforeſaid for the traitorous purpoſes aforeſaid

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid and in order the more readily and effectually to aſſemble ſuch Convention and Meeting as aforeſaid for the traitorous purpoſes aforeſaid and thereby to accompliſh the ſame purpoſes they the ſaid *Thomas Hardy*, *John Horne Tooke*, *John Auguſtus Bonney*, *Stewart Kyd*, *Jeremiah Joyce*, *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwall*, *Richard Hodgſon*, and *John Baxter*, as ſuch falſe traitors as aforeſaid on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after with force and arms at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid did meet conſult and deliberate among themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown of and concerning the calling and aſſembling ſuch Convention and Meeting as aforeſaid for the traitorous purpoſes aforeſaid and how when and where ſuch Convention and Meeting ſhould be aſſembled and held and by what means the ſubjects of our ſaid Lord the King ſhould

and

and might be induced and moved to ſend perſons as delegates to compoſe and conſtitute the ſame

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid and in order the more readily and effectually to aſſemble ſuch convention and meeting as aforeſaid for the traitorous purpoſes aforeſaid and thereby to accompliſh the ſame purpoſes they the ſaid *Thomas Hardy*, *John Horne Tooke*, *John Auguſtus Bonney*, *Stewart Kyd*, *Jeremiah Joyce*, *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwell*, *Richard Hodgſon* and *John Baxter*, as ſuch falſe traitors as aforeſaid together with divers other falſe traitors whoſe names are to the Jurors aforeſaid unknown on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after with force and arms at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid maliciouſly and traitorouſly did conſent and agree that the ſaid *Jeremiah Joyce*, *John Auguſtus Bonney*, *John Horne Tooke*, *Thomas Wardle*, *Matthew Moore*, *John Thelwall John Baxter*, *Richard Hodgson*, one *John Lovett*, one *William Sharp*, and one *John Pearſon*, ſhould meet confer and co-operate among themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown for and towards the calling and aſſembling ſuch Convention and Meeting as aforeſaid for the traitorous purpoſes aforeſaid.

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable com-

compaſſings and imaginations aforeſaid they the ſaid *Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson and John Baxter* as ſuch falſe traitors as aforeſaid together with divers other falſe traitors whoſe names are to the Jurors aforeſaid unknown on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after with force and arms at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid maliciouſly and traitorouſly did cauſe and procure to be made and provided and did then and there maliciouſly and traitorouſly conſent and agree to the making and providing of divers arms and offenſive weapons to wit guns muſquets pikes and axes for the purpoſe of arming divers ſubjects of our ſaid Lord the King in order and to the intent that the ſame ſubjects ſhould and might oppoſe and withſtand our ſaid Lord the King in the due and lawful exerciſe of his royal power and authority in the execution of the laws and ſtatutes of this realm and ſhould and might unlawfully forcibly and traitorouſly ſubvert and alter and aid and aſſiſt in ſubverting and altering without and in defiance of the authority and againſt the will of the Parliament of this kingdom the legiſlature rule and government now duly and happily eſtabliſhed in this kingdom and depoſe and aid and aſſiſt in depoſing our ſaid Lord the King from the royal ſtate title power and government of this kingdom.

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid they the ſaid *Thomas*

Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and *John Baxter*, as ſuch falſe traitors as aforeſaid with force and arms on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid maliciouſly and traitorouſly did meet and conſpire conſult and agree amongſt themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown, to raiſe levy and make inſurrection rebellion and war within this kingdom of Great Britain againſt our ſaid Lord the King

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imaginations aforeſaid they the ſaid Thomas Hardy, John Horne Tooke, John Auguſtus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgſon, and John Baxter, as ſuch falſe traitors as aforeſaid on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after at the pariſh of St. Giles aforeſaid in the county of Middleſex aforeſaid with force and arms maliciouſly and traitorouſly did meet and conſpire conſult and agree amongſt themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown unlawfully wickedly and traitorouſly to ſubvert and alter and cauſe to be ſubverted and altered the Legiſlature Rule and Government now duly and

and happily eſtabliſhed in this kingdom and to depoſe and cauſe to be depoſed our ſaid Lord the King from the royal ſtate title power and government of this kingdom.

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid and in order the more readily and effectually to bring about ſuch ſubverſion alteration and depoſition as laſt aforeſaid, they the ſaid *Thomas Hardy*, *John Horne Tooke*, *John Auguſtus Bonney*, *Stewart Kyd*, *Jeremiah Joyce*, *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwell*, *Richard Hodgſon* and *John Baxter*, as ſuch falſe traitors as aforeſaid together with divers other falſe traitors whoſe names are to the Jurors aforeſaid unknown on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid with force and arms maliciouſly and traitorouſly prepare and compoſe and did then and there maliciouſly and traitorouſly cauſe and procure to be prepared and compoſed divers books pamphlets letters declarations inſtructions reſolutions orders addreſſes and writings and did then and there maliciouſly and traitorouſly publiſh and diſperſe and did then and there maliciouſly and traitorouſly cauſe and procure to be publiſhed and diſperſed divers others books pamphlets letters declarations inſtructions reſolutions orders addreſſes and writings ſo reſpectively prepared compoſed publiſhed diſperſed and cauſed to be prepared compoſed publiſhed and diſperſed as laſt aforeſaid purporting and containing therein (amongſt other things) incitements encouragements and exhortations to move induce and perſuade

perſuade the ſubjects of our ſaid Lord the King to aid and aſſiſt in carrying into effect ſuch traitorous ſubverſion alteration and depoſition as laſt aforeſaid and alſo containing therein amongſt other things informations inſtructions and directions to the ſubjects of our ſaid Lord the King how when and upon what occaſions the traitorous purpoſes laſt aforeſaid ſhould and might be carried into effect.

AND FURTHER TO FULFIL perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings and imaginations aforeſaid they the ſaid *Thomas Hardy*, *John Horne Tooke*, *John Auguſtus Bonney*, *Stewart Kyd*, *Jeremiah Joyce*, *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwall*, *Richard Hodgſon*, and *John Baxter*, as ſuch falſe traitors as aforeſaid on the ſaid firſt day of March in the thirty-third year aforeſaid and on divers other days and times as well before as after at the pariſh of Saint Giles aforeſaid in the county of Middleſex aforeſaid with force and arms maliciouſly and traitorouſly did procure and provide and did then and there maliciouſly and traitorouſly cauſe and procure to be provided and did then and there maliciouſly and traitorouſly conſent and agree to the procuring and providing arms and offenſive weapons to wit guns muſquets pikes and axes therewith to levy and wage war inſurrection and rebellion againſt our ſaid Lord the King within this kingdom againſt the duty of the allegiance of them the ſaid *Thomas Hardy*, *John Horne Tooke*, *John Auguſtus Bonney*, *Stewert Kyd*, *Jeremiah Joyce*, *Thomas Wardle*, *Thomas Holcroft*, *John Richter*, *Matthew Moore*, *John Thelwall*, *Richard Hodgson*, and *John Baxter*, againſt the peace of our ſaid Lord the now King his crown and dignity

dignity and againſt the form of the ſtatute in that caſe made and provided.

The priſoners were then ſeverally aſked the uſual queſtions. "Guilty or not guilty?"—How will you be tried?"

Mr. Hardy—"Not Guilty."—"By God and my country."

Mr. Tooke—"Not Guilty." On being aſked, how he would be tried? he eyed the Court for ſome ſeconds, with an air of ſignificancy, which few men are ſo well able to aſſume; and, ſhaking his head, emphatically anſwered, *would* be tried by God and my country"

The others anſwered in the uſual manner—"Not Guilty."—"By God and my country."

Mr Bonney was about to make ſome remarks, when he was interupted by

The Lord Preſident—"Tooke having complained of the coldneſs of the air, may withdraw."

Mr. Tooke then withdrew.

Clerk—"John A. Bonney, are you Guilty or Not Guilty?"

Priſoner—"My Lord, there is an error in the Indictment, as applied to me. I am deſcribed as having lately reſided

reſided in the pariſh of St. Giles in the Fields. I never did reſide in that pariſh, but in the pariſh of St Pancras. I am alſo charged with having committed High Treaſon in the pariſh of St Giles, which is an aſſertion as falſe as the deſcription. I am contented, however, to take my trial, and look forward, with anxious expectation, to that day when I hope to receive a retribution for the aſperſions which have been caſt upon my character. I therefore wave every objection to the Indictment, and plead that I am Not Guilty."

Clerk—" John Thelwall, are you Guilty, or Not Guilty.

Mr. Thelwal—" There is a circumſtance, my Lord, which my Council have informed me would entirely quaſh this Indictment, as far as regards me, if I were inclined to take advantage of it. My deſcription is not right. I am deſcribed as an inhabitant of Weſtminſter whereas I reſide in the Liberties of the Dutchy of Lancaſter. Anxious as I am to have my conduct examined into by my country, I deſpiſe the idea of availing myſelf of any paltry ſubterfuge. I feel perfectly convinced, that when the long expected day ſhall come, that no *honeſt* Jury can ſay otherwiſe than I do now—Not Guilty."

The reſt of the priſoners, without making any remarks, pleaded Not Guilty; and wiſhed to be tried by God and their Country.

The Attorney General ſaid, he underſtood the priſoners wiſhed to be tried ſeparately. He agreed to it, and moved to that effect. Mr.

Mr. Erſkine—My Lord, as Counſel for the priſoners. I beg leave to addreſs a few words to your Lordſhips. By acciident, I was not here when the Court ſat, not being aware of rhe hour. In our abſence, I underſtand thar one of the gentleme, for whom I am Counſel, complained, that by being ſuddenly removed from the Tower to Newgate, he was deprived of an opportunity of conve:ſing with us at a time when undoubtedly it had been agreed thar we ſhould meet. It, therefore, it would make no difference, that the trials ſhould commence on Tueſday inſtead of Monday, I take it for granted, it would be an advantage to the priſoners. Mr. Gibbs and I had appointed Friday for going to the Tower to viſit Mr. Tooke; he was then to have laid all his papers before us, but afterwards we found that he, and the reſt of the priſonerss had been removed to Newgate, ſo that we had no opportunity of ſeeing him. Under theſe circumſtances, it is that I apply to the Court, that the trials may not commence until Tueſday."

Chief Juſtice Eyre—" What does the Attorney General ſay to this application."

Attorney General—" With reſpect to the removal of theſe gen:lemen from the Tower to Newgate, notice was given to them that they would be removed here as this day. It was my wiſh to remove them as late as, with convenience, it could be done, with a view that their time might be unembarraſſed.

Of the circumſtance ſtated by one of the priſoners, and by his Counſel, I did not hear one world until I came into this court. At the ſame time, undoubtedly, my

object

object in these prosecutions is, that after a full and impartial hearing by a Jury of the country, they shall decide whether that accusation which has been found by a Grand Jury of the country, is well sounded or not, and if it be necessary to that impartial hearing, that the Prisoners should have until Tuesday before the trials commence, if the convenience of the Court is not by that means embarrassed, it will be my duty, undoubtedly to consent to it.

Chief Justice Eyre—"The Court is not so deeply engaged as to make it absolutely necessary for their accommodation, that the public business should proceed on Monday, and therefore as the Attorney General consents that the trial should not commence until Tuesday, the Court agrees to it.

Attorney General—"The Court must sit on Monday to adjourn the Jury, or the Jury must be summoned again."

Chief Justice Eyre—"It being now settled that the Trials shall not come on until Tuesday, I hope the Sheriffs will be able to give the Jury timely notice, that their assistance will not be wanted until Tuesday. The Court may sit on Monday, and adjourn until Tuesday. At the same time, I hope the Jury will not be troubled to come here until Tuesday morning. And I think they had better be summoned to attend here at seven o'clock in the morning, as the Court will sit at eight. We mean then to begin with the trial of Thomas Hardy.

Mr.

Mr. Bonney then ſaid—"I beg that your Lordſhips will allow me a few words before we quit the bar. I aſſure you, if I had been arraigned for any known and certain treaſon, for murder, or for felony, I would aſk no favour of your Lordſhips; but when I ſtand before you upon a caſe, in which (and I believe I have your Lordſhip's opinion in my favour on the ſubject) if the facts charged againſt us ſhould be proved, there would ſtill be very great doubt upon the law.

"I truſt I do not make an improper requeſt, when I ſolicit your Lordſhips, that we may be allowed as many of the little comforts and conveniencies of life (to which we have been accuſtomed) as may be conſiſtent with the ſecurity of our perſons. Your Lordſhips, I am ſure, will agree with me, that a ſituation in which a man can neither ſleep by night, nor caſt his eye on a ray of comfort by day, is not much adapted to prepare his mind for ſo important a trial as mine—and yet my Lords, ſuch is my ſituation.

"I beg to be underſtood not to intend the ſmalleſt inſinuation againſt the Sheriffs, their language and their countenances, when they viſited me yeſterday in my cell, ſufficiently convinced me of the concern they felt at not being able to afford me better accommodation. My requeſt, therefore, to your Lordſhips is, that we may be remanded to the cuſtody of the governor of the Tower; we have been treated, for two and twenty weeks, with the greateſt humanity and attention."

Chief Juſtice Eyre—" I doubt that cannot be done. If it ſhould turn out that your trial is poſtponed for any conſiderable time, it will be proper to make an application elſewhere for indulgence. I dare ſay the humanity of the Sheriffs will induce them, as far as it is in their power, ſo to better your ſituation, that Mr. Erſkine and Mr Gibbs may viſit you. With reſpect to ordering you back to the Tower, I think it is not within the proper authority of this Court, and, therefore, I feel that your application for that purpoſe muſt be made elſewhere."

Mr. Bonney was about to reply to the Chief Juſtice, when Mr. Gibbs ſaid, " Mr. Bonney, you will have nothing to complain of."

Mr. Richter—" My Lord, I am in the ſame ſituation with Mr. Bonney, I cannot think of requeſting Mr. Erſkine and Mr. Gibbs to viſit me."

Chief Juſtice Eyre—" I have no doubt but that the Sheriffs will do every thing they can to accommodate you."

Mr. Thelwall—" My Lord, the ſituation in which I am confined, though deplorable beyond any thing that ever before entered my imagination, ſhould not be the ſubject of complaint with me, if I alone were concerned; but men in my ſituation may have connections who have been uſed to ſome of the decencies of life; theſe connections may have feelings, and may not be formed with that degree of fortitude which perſecuted innocence may

may give to others; I therefore think we ſhould have a place where one mouthful of freſh air at leaſt may be admitted in the courſe of the day. This is certainly abſolutely neceſſary to the health of perſons in our ſituation. By this means, our few acquaintance who come to viſit us, would be freed from a great deal of anguiſh, anxiety, and diſtreſs of mind which they muſt neceſſarily feel, were they to be witneſſes to the very wretched manner in which we are at preſent provided."

"I do not make theſe obſervations, as I have already ſtated, on my own account; for I flatter myſelf I have fortitude and dignity of mind ſufficient to ſupport me under my preſent ſufferings."

Mr. Baxter—"Thoſe who have already made complaints, as well as myſelf, have been ſhut up, ſince Friday, without having one breath of freſh air for five minutes. I hope, therefore, my Lord, that our preſent ſituation will engage the Attention of thoſe in whoſe power it is to better it."

Chief Juſtice Eyre—"I can only repeat what I have already ſaid. My recommendation to the Sheriffs, as well as their own humanity, will lead them, I have no doubt, to grant you every accommodation which the caſe, and the nature of your ſituation will permit."

The Sheriffs promiſed to follow every inſtructon of the court.

The Court was adjourned until Monday.

The Priſoners were all well dreſſed, and ſeemingly in good ſpirits; but Mr. Horne Tooke appears to have ſuffered much from his confinement. He looked extremely pale and ſickly; but his reaſoning powers and delivery were as vigorous as ever.

Mr. Holcroft is lodged on the State ſide, with Mr. Symonds, the Bookſeller.

Mr. Bonney, who is in a precarious ſtate of health, in conſequence of his preſentation to the Court on Saturday, has now Mr. Gerrald's apartments on the ſame ſide. The latter has been removed to the New Compter.

The Court was remarkably crowded; and there was an attractive diſplay of beauty and elegance, a greater number of Ladies appearing than on former occaſions. They were all as well dreſſed as thoſe who attended Mr. Haſtings's Trial; and the Sheriffs and their Deputies evinced a laudable ſolicitude for their accommodation.

Young Jay, the ſon of the American Ambaſſador, was preſent. He was accompanied by Alderman Combe.

By the happy circumſpection of the City Marſhalls, the greateſt regularity and decorum were obſervable; and the ingreſs and egreſs were eaſy, as the Sheriffs had wiſely iſſued no more tickets of admiſſion than the place would contain.

FIRST

FIRST DAY.

Tueſday, Oct: 28, 1794.

THIS morning at eight o'clock, the Court opened its Seſſion, agreeably to adjournment. The Commiſſioners in Court were,

Lord Chief Juſtice Eyre,
Chief Baron M'Donald,
Mr. Juſtice Buller,
Mr. Baron Hotham, and
Mr. Juſtice Groſe.

Proclamation being made, Thomas Hardy, the priſoner, was brought to the bar.

The liſt of Jurors was called over, when a great number of them were diſqualified, as not being Freeholders of Middleſex, though taken from what is called the Freeholder's Book; a few of them pleaded the privilege of age (being above ſeventy) and were excuſed; and ſome pleaded infirmities, which were admitted. The number of Jurors, who anſwered to their names, was 134. Of the qualified perſons preſent, the Counſel for the Crown made a peremptory challenge to five or ſix, and Mr. Erſkine, as Counſel for the Priſoner, made his

his full challenge of thirty-five. At length the following Jury were ſworn:

Thomas Buck, Acton, Foreman,
Thomas Wood, Coal-merchant,
William Frazer, Queen-ſquare,
Adam Stainmetz, Biſcuit-baker,
John Connop, Diſtiller,
John Mercer, Mealman,
Thomas Sayer, Bow,
Richard Carter, Paddington-ſtreet,
Nathaniel Stonard, Starch-maker,
Joſeph Nicol, Farmer,
John Charrington, Brewer,
Joſeph Ainſley. St. George's Coal-merchant.

Chief Juſtice Eyre informed the Jurors, whoſe aſſiſtance was not wanted for the preſent, that they might retire, or continue in court, agreeable to their diſcretion. He ſaid, as they had come forward with alacrity, that it was the wiſh of the Court to require a daily attendance, and hoped that when they ſhould be again called upon, though the notice might be ſhort, they would ſtill manifeſt the ſame attention which they did on this day.

Proclamation being made for ſilence, the Clerk of the Court addreſſed the Priſoner in the uſual form, and charged the Jury as to the manner in which they ſhould enquire of the guilt or innocence of the Priſoner, &c.

Mr.

Mr. Wood opened the pleadings on the part of the Crown. The firſt overt act ſtated in the indictment was, That the priſoner, with others, having formed an intention of traitorouſly breaking the peace and tranquility of the kingdom, and to ſtir up, move, and excite inſurrection and rebellion in the kingdom, and war againſt the King, and in order to carry into effect ſuch intention, did meet and conſpire amongſt themſelves, and other falſe traitors to the King, to ſubvert the Government, and to depoſe the King.

The ſecond overt act was, That theſe perſons did write and compoſe divers books, pamphlets, letters, and addreſſes, in writing, recommending Delegates to a Convention.

The third overt act charged was, That they did conſult on the means to form a Convention, and on the place where it might be held, &c.

The fourth overt act charged was, That they did agree among themſelves and others, to meet, form, and aſſemble into a Society, for the purpoſe aforeſaid.

The fifth charged, That they cauſed to be procured to be made, arms, to ſubvert the Government of this Country, and to depoſe the King.

The ſixth charged, That they conſpired to raiſe and to levy war within this realm.

The

The ſeventh, That they conſpired to aid the King's enemies, &c.

The eighth, That they did draw and compoſe certain books, pamphlets, letters, exhortations and addreſſes, and did malicioufly publiſh them, for the wicked purpoſes aforeſaid.

The ninth, That they did procure arms, for the purpoſe of levying war againſt the King, and to excite rebellion, &c.

To which the Defendants had pleaded Not Guilty.

His Majeſty's Attorney General, in a ſpeech of nine hours, went into a very full and minute detail of the ſubject of theſe proſecutions for High Treaſon.

He began with obſerving, That in the courſe of ſtating what he had to mention to them, he muſt ſolicit their moſt ſerious attention to this great and weighty buſineſs, affecting, as it certainly did, the public at large, and alſo affecting, as they would remember, through every part of it, the Priſoner at the bar. He ſhould have frequent occaſion to call upon their anxious attention to the different parts of that indictment, which had juſt been opened to them.

He ſaid, the priſoner at the bar was charged (to ſtate the indictment generally, "Wich the offence of compaſſing his Majeſty's death." He was committed on that charge by his Majeſty's Privy Council.

In

In conſequence of the apprehending of this priſoner, ſome others, who were charged in the ſame indictment, as well as others, whoſe names were not found here, were taken into cuſtody. Afterwards, an Act paſſed, empowering his Majeſty to detain ſuch perſons as he ſuſpected were conſpiring his death. That Act had aſſerted, that a traitorous and deteſtable conſpiracy had been formed, for ſubverting the exiſting Laws and Conſtitution, and for introducing that ſyſtem of anarchy and confuſion which has ſo fatally prevailed in France. That Act, on the ſpur of the emergency, authoriſed his Majeſty to detain, without bail, mainprize, or diſcharge, thoſe perſons that were committed on ſuſpicion, until February 1, 1795.

It was to be obſerved, however, that that meaſure did not ſuſpend the Habeas Corpus Act, but with regard to particular perſons, under particular circumſtances.

Such a meaſure had never been adopted by Parliament; but in caſes which, after giving all poſſible attention that the rights of the ſubject ſhould not be broke in upon, appeared to be of the laſt poſſible neceſſity. That meaſure had been repeatedly put in force in the very beſt times, and in thoſe caſes where the wiſdom of Parliament thought it wiſe that we ſhould part with our liberty for a little, that we might not loſe it for ever. He appeared that day before the Gentlemen of the Jury, in the diſcharge of a duty which ſeemed to him abſolutely neceſſary. The proceedings of the Legiſlature had been ſuch as he had ſtated to them. His Majeſty, in the exerciſe of his duty, as the great

conſervator of the public peace, directed an inquiry to be made, whether any ſuch treaſon, on the preſumption of the exiſtence of ſuch a conſpiracy, had been committed by any perſon, and by whom.

In the execution of the duties of that commiſſion, a Grand Jury of this country, on their oaths, have declared, that there is ground of charge againſt the perſon at the bar, and againſt others, ſufficient to call them to trial before you, to anſwer for the charge of High Treaſon, in compaſſing his Majeſty's death.

He ſaid, he had ſtated theſe circumſtances, that he might convey to the Jury, in as ſtrong terms as he poſſibly could expreſs it, that whatever influence the proceedings of Parliament might have, and he was purſuaded would have, becauſe they ought to have, in another quarter, yet he was perfectly perſuaded that they had no influence whatever on the minds of the Grand Inqueſt; nor ought thoſe proceedings to affect their (the Jury's) inquiry, or to influence them in the determination they were about to make.

They would, therefore, conſider the Priſoner at the bar as ſtanding before them in full poſſeſſion of an abſolute right to the preſumption of innocence, notwithſtanding he was charged with that indictment, except ſo far as that preſumption was met by the ſingle, ſimple fact, that he had been accuſed by a Jury of his country.

The

The Gentlemen of the Jury would permit him to ſay, that if any thing had fallen under their obſervation tending to influence their judgment, by aſperſing the advice given to the Grand Jury in the matter of law*, as on the one hand he was perfectly ſure that the integrity would be a ſecurity to the Public, and that they would not permit any attempt of that ſort to operate on their minds in the ſmalleſt degree. On the other hand, it was needleſs to aſk an Engliſh Jury, that they ſhould not be influenced againſt the priſoner.

In order that the Jury might underſtand the law of Treaſon, and the indictment, he begged leave to make ſome obſervations.

The power of the State, by which he meant the power of making laws, and enforcing the execution of them when made, reſided in the King, acting in the one caſe, to wit, in his Legiſlative character, by and with the advice and conſent of the Lords Spiritual and Temporal, and the Commons, in Parliament aſſembled—aſſembled according to the law and conſtitutional cuſtom of England. In the other caſe, by executing the laws, when made, in ſubſervience to the law, and by acting in the manner in which the law hath called upon him to act for the good of his ſubjects.

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* The Attorney General in this alluded to the Strictures publiſhed on the Lord Chief Juſtice's Charge to the Grand Jury.

The King was under checks and regulations, and was bound to ſquare his conduct according to the Law of the Land.

No law could be made but by the King and the Parliament meeting in its political capacity.

No legiſlative power could be created againſt the will, or in defiance of the authority of the King. The allegiance of his ſubjects binds them, in the language of the ſtatutes of this country, to defend his Majeſty againſt all traitorous conſpiracies and attempts whatever, which ſhall be made againſt his perſon, his crown, or his dignity. To aſcertain to whom his care and protection are due; to aſcertain to whom this allegiance is due, the breach of which, according to the venerable Lord Hale, conſtituted High Treaſon; to aſcertain and define accurately what conſtituted a breach of that allegiance, was eſſentially and abſolutely neceſſary to the ſecurity and preſervation of the antient and undoubted rights of Engliſhmen.

The one of theſe objects was ſecured by the Law and Conſtitution; by that Law which ſecured to us every right. It had made the Crown hereditary, though ſubject to certain limitations by Law. The other object the Law and conſtitution had alſo aſcertained. It had defined thoſe duties which it was incumbent on his Majeſty to practiſe, and in the practice of which duties, the Law had aided him with Councils; and in conſideration of which duties, it had clothed him with dignity, and veſted him with high prerogatives.

The

The moment the title accrued to the King, the ſame inſtant our allegiance began; the breach of which was High Treaſon.

His Majeſty, at his coronation, took an oath to govern the people of this country according to the ſtatutes in Parliament agreed upon; to execute the Laws, in juſtice and mercy; and to maintain the Laws of God and Religion, as eſtabliſhed by Law,

That coronation oath, as ſtated by that great and conſtitutional Judge, Sir Michael Foſter, impoſed on his Majeſty the moſt ſacred obligations—to govern according to the Laws and Statutes in Parliament aſſembled, according to the laws and cuſtoms of the ſame, and in no other way.

In addreſſing that Court, which was a Court of Law, and in which the Gentlemen of the Jury were ſworn to make a true deliverance, according to the Law of England: he could not expreſs himſelf too ſtrongly, when he declared it could not be ſuppoſed to be poſſible, that the King could, conſiſtently with his oath, and with his antecedent duties recognized, either act, or permit himſelf to act, according to any other rule of government, framed by any body of men, aſſuming any character, function, or ſituation, the ſtatutes agreed on in Parliament, and the laws and cuſtoms thereof only excepted.

It ſeemed to be a neceſſary concluſion, not only that thoſe who conſpired to remove him out of the government

ment altogether, but alſo that thoſe who conſpired that he ſhould not govern by the Laws, made with and by the conſent and advice of the two Houſes of Parliament, wiſhed and contended to depoſe him from his royal ſtate, title, power, and government, and to ſubvert and alter the Legiſlature, Rule, and Government, happily eſtabliſhed in this kingdom. His Majeſty ought not ſo to govern. He could not ſo govern. He was bound not ſo to govern. He muſt reſiſt the attempt, whatever might be the conſequence, and that would either occaſion his depoſition or endanger his life.

The Law and Conſtitution, as already hinted, have aſſigned to him various Councils; it hath put him under various conſtitutional checks, aud hath provided him with various prerogatives, which were neceſſary for the ſupport and maintenance of the civil liberties of the kingdom. It hath clothed him with imperial dignity and perfection. In his political capacity, he never ceaſes to exiſt. In foreign affairs, he is the repreſentative of his people. He makes war and peace. He raiſes fleets and armies. He was the fountain of juſtice; and every where preſent, by his Judges, to adminiſter it to his people. He was the great conſervator of the public peace, and bound to maintain and vindicate it every where. Such were his duties, for the ſecurity, protection, and happineſs of his people.

He hoped it would not be thought he had been miſſpending their time, by making ſuch obſervations. Theſe important duties accounted for the juſt anxiety, bordering on jealouſy, with which the Law watched over

over the perſon of the King. Lord Hale ſaid, High Treaſon was an offence more immediately againſt the perſon and authority of the King. Mr. Juſtice Foſter had, with great propriety, ſaid, that the crime of High Treaſon ought to receive the rigour of the law in its fulleſt extent, in the caſe of the King; in the caſe of him, whoſe life was not to be endangered, becauſe it could not be taken away without involving a nation in blood and confuſion. To ſtrike at him was to ſtrike at the public tranquility.

He wiſhed to put the Jury in mind, that as on the one hand it was abſolutely neceſſary that the perſon and authority of the King ſhould be defended, and that individuals, who were clearly convicted of the crime of High Treaſon, ſhould ſuffer the ſeverity of the law. On the other hand, it was abſolutely neceſſary, for the ſecurity of individuals, that the crime of High Treaſon ſhould not be vague and indefinite, either on account of the Law itſelf, or from the conſtructions which may be made of that Law. It was not to be collected from reaſoning or inference.

It was proper to obſerve the great anxiety with which the ſtatute of the 25th of Edward III. had guarded againſt Connſtructive Treaſons, and expreſsly ſtated what our anceſtors underſtood to be High Treaſon, when the proviſions of that ſtatute were firſt introduced into the Code of our Laws.

He admitted, that, before that ſtatute was made, upon

on which the preſent indictment was founded, it was often difficult to ſay, what offences were or were not High Treaſon. That ſtatute was, therefore, introduced for guarding the ſubject.

Every State muſt have ſome Government: in other words, it muſt determine by whom the Sovereign Power in a country was to be executed.

No Government could exiſt, unleſs that power was placed ſomewhere; and an attempt to ſubvert the power, is an attempt to ſubvert the eſtabliſhed Government: and it was of neceſſity, that ſuch an attempt ſhould be proceeded againſt by ſevere puniſhment. The breach of a law, which did involve the deſtruction of the State—the violation of one law, which left the laws in general, which were ſufficient for the ſecurity and happineſs of the people, deſerved a milder puniſhment. Lord Hale ſaid, the greatneſs of the offence of High Treaſon, and the enormity of the puniſhment was for this reaſon; becauſe, the peace, ſafety, and tranquillity of the kingdom, was highly concerned in the ſafety and preſervation of the perſon, dignity, and authority of the King; and, therefore, the laws of the kingdom, had given all poſſible ſecurity to the King's perſon and government, under the ſevereſt penalties.

To deſcribe this great offence with preciſion and accuracy, was the intention of the Legiſlature in the time of Edward III. In addreſſing a Jury, in a Court of Law, ſworn to make a true delivery according to the Law, there were two propoſitions which appeared to him equally

equally clear. 1ſt. That they ought not to bring thoſe facts under the 25th of Edward III. which a fair, juſt, and authorized interpretation of that ſtatute did not warrant. On the other hand, as they were bound by that Law, if they were ſatisfied it had been violated; if the fact of violation was proved by evidence, convincing in its nature, and ſuch in its form as the law in this caſe required, then they were bound by the laws of their country to defend the perſon and honour of the Sovereign, and to give that verdict which the ſtatute intended ſhould be given.

Men of honour, and of conſcience, acting under the ſanction of the oath they had taken, muſt come to the ſame concluſions, judging of the ſame facts by the ſame laws, whatever their principles of government might be, unleſs they differed on the effect of the facts laid before them.

In the trial of a perſon, whom I ſhall often have occaſion to mention in the courſe of theſe proceedings, (T. PAINE) it was truly, , and ſtrongly admitted, by Mr. Erſkine, that, if the Jury had been compoſed of twelve Republicans, wiſhing to overſet the Monarchy in their hearts, yet adminiſtering the law of England, and if they were convinced the crime had been committed, that the law had been violated, no man would have the audacity to ſay, that they ought not to have come to this concluſion—to have found the Defendant Guilty.

The ſtatute upon which the preſent indictment was

founded, ſtated, and ſtated truly, that divers opinions had been had before the paſſing the 25th of Edw. III. about what offences ſhould be deemed High Treaſon, and what not.

Mr. Attorney General here entered into a very diſtinct and minute conſideration of thoſe caſes that conſtituted High Treaſon by the 25th of Edw. III. He alſo conſidered the expoſition of that ſtatute by Sir Matthew Hale, and Mr. Juſtice Foſter.

He obſerved the caution which thoſe eminent Judges gave to others, not to let in by conſtruction any Treaſons not contained in the ſtatute.

Mr. Attorney General obſerved, that this gave infinite authenticity to their own expoſition of it, inaſmuch as it was to be ſuppoſed that they, who ſo anxiouſly recommended caution to others in the interpretation of the ſtatute, would obſerve it themſelves.

After the ſtatute had enumerated thoſe offences that were to be held to be High Treaſon, it did not ſtop there, but had this clauſe :—"Becauſe other like caſes of Treaſon may happen in time to come, which cannot be thought of, nor declared at preſent, it is accorded, that if any other caſe, ſuppoſed to be Treaſon, which is not above ſpecified, doth happen before any Judge, the Judge ſhall tarry without going to judgment of the Treaſon, until the cauſe be ſhewed and declared before the King and his Parliament, whether it ought to be judged Treaſon or other felony." Sir Matthew Hale

Hale obſerved, how dangerous it was to make that High Treaſon which was not ſo by the ſtatute. He obſerved, that that Act was a great ſecurity to the ſubject, as well as a direction to Judges, to prevent them from running out, upon their own opinions, into conſtructive Treaſons, in caſes that might ſeem to them to have a like parity of reaſon, but reſerving them to the deciſion of Parliament. It was a great ſecurity to the public, to the Judges, and even to this ſacred Act itſelf: and left a weighty momento to Judges, to be careful, and not over haſtily, in letting in treaſons by conſtruction or interpretation, eſpecially in new caſes, that had not been reſolved and ſettled.

Having ſtated thus much, Sir John Scott declared, that he did moſt diſtinctly diſavow making any charge of conſtructive Treaſon; that he did moſt diſtinctly diſavow ſtating any like caſe of Treaſon, not ſpecified in the ſtatute; that he did moſt diſtinctly diſavow every thing not ſpecified in the ſtatute; that he did diſtinctly diſavow a life of crimes; and the ſimple queſtion was, Whether the priſoner was guilty of that High Treaſon which was ſpecified in the ſtatute; and whether the evidence which was to be brought before the Jury, amounted to that proof which was ſatisfactory to their minds and conſciences, being prepared to admit no proof but what they ought to receive, that the priſoner may be attainted in conſequence of an open deed.

The indictment charged the priſoner with compaſſing and imagining the King's death, and by uſing means to effect that purpoſe.

In order to be thoroughly underſtood, he begged leave to ſtate, there was a ſettled diſtincton in the courſe of judical practice, ſettled for no other reaſon but becauſe there is a manifeſt diſtinction between like caſes of Treaſon, or accumulative Treaſon, and various overt acts of the ſame Treaſon.

He did not wiſh them to enter into any diſcuſſion of what he took to be the clear and eſtabliſhed Law of England. I take it to be clear, that a conſpiracy to depoſe the King; to impriſon him; to get his perſon into the power of the conſpirators; to raiſe an inſurrection. to procure an invaſion of the kingdhm, &c. are overt acts of Treaſon in compaſſing the King's death. So they had been adjudged by Hale and Foſter.

Overt acts were the meaſures taken in purſuance of treaſonable purpoſes; which meaſures might be as various in their kinds, as the ways and means which the human heart could deviſe to itſelf for carrying its intentions into execution.

He ſaid, he was very ſorry to trouble them ſo much with general reaſoning, but they would afterwards find it had its application. He did not underſtand what conſtructive overt acts meant, though he underſtood what was meant by conſtructive Treaſon. Parliaments had acquieſced in the caſes ſtated by Hale and Foſter, and execution had been done on them.

That there was an intention to compaſs the King's death, muſt be proved by ſuch an open fact as muſt fully ſatisfy the conſciences of a Jury, Con-

Conſpiring to impriſon the King, is an act that might be done without actually intending to put him to death; but, ſays Foſter, the care which the law has taken of the perſon of the King, is not confined to acts or to attempts, the law has extended it to every thing wilfully and deliberately done, whereby his life may be affected; and therefore entering into meaſures to impriſon him, are overt acts of Treaſon; for experience hath ſhewn, that between the priſon and grave of Kings the diſtance is very ſmall.

The Attorney General next proceeded to conſider the Indictment; and again repeated, in ſtrong language that he did not mean to extend the Law of Treaſon one ſingle ioto beyond what he conceived the ſtatute intended. He conſidered the charge laid in the indictment, and commented on the different overt acts of Treaſon enumerated in it.

He ſaid, he ſhould next trouble them with ſome general obſervations, before he ſtated the evidence, in order to enable them to underſtand the maſs of that evidence he ſhould lay before them. The Convention to be aſſembled was a convention of perſons who were to take the character of the Convention of the People, uſurping all civil and political authority which muſt endanger the life of the King. If that was made out, they muſt be guilty of a conſpiracy to depoſe the King. There could not be two Sovereign Powers in a State; and if there was a Convention of the People, aſſuming to itſelf all civil and political authority, one or other muſt yield. The King and Parliament muſt be obedi-

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ent to the Convention, or the Convention to them. If the Convention were obedient to the Parliament, it could not effect its purpoſes. That, therefore, was an overt act of compaſſing the King's death. It was a conſpiracy to annihilate the exiſting power; and which, of neceſſity, led to depoſe the King. Whether it ſucceeded or not was immaterial.

There was, he ſaid, another diſtinction. It was of no conſequence whether the firſt meeting propoſed to be aſſembled was the firſt Aſſembly to aſſume all civil authority, or only deviſed the means of forming a Conſtituent Aſſembly who was to aſſume it.

He thought the evidence he had to lay before them would abuntantly ſatisfy them, that they conſpired to form a Convention to alter the whole frame of the Government of the Country; that it was to be a Republican Government, to veſt in a body fond of univerſal ſuffrage and unalienable impreſcriptable Rights of Man, all the executive and legiſlative rights of the country. That this was an act of High Treaſon could not be doubted, as it involved in it the deſtruction of the Regal office. He went farther; if it had been intended to retain the name of King, and the perſon of the preſent King, creating a new Legiſlator to act with him, their thus calling on him to act contrary to the Laws of the Land, would be a conſpiracy to depoſe him from Royal authority. If he refuſed to accept, he muſt be depoſed; if he did accept, he was not the King of Britain, as eſtabliſhed by law. He could not ſo govern: he muſt not ſo govern. He muſt not reſiſt, and

and therefore he muſt be depoſeed when ſuch a new Conſtitution was formed. He would, to uſe the language of Judge Hale, be deſpoiled of his Kingly Government. He could not be King conſiſtently with his Coronation Oath; and if he reſiſted, his life muſt be in danger. That Convention would itſelf be the Sovereign, and muſt depoſe every other ſovereign power. That was the character, he believed, of the Convention that would be given in evidence before them.

With regard to the priſoner at the bar, he thought he could ſatisfy the Gentlemen of the Jury that he conſpired to aſſemble ſuch a Convention, and that it was to be Sovereign, Irreſiſtible, Unlimited, and Uncontroulable; and thus it was that a full and fair Repreſentation of the People in Parliament was to be effected.

When the Convenrion in the year 1688, was in poſſeſſion of a vacant throne, the moment they beſtowed it on King William and Queen Mary, from that inſtant ſovereign power became veſted in the King, with the advice and conſent of the Parliament, incapable of being exerciſed otherwiſe but under the limitations and proviſions of the Conſtitution. The moment they became King and Queen, ſovereign power veſted in them.

He ſaid, he ſhould not then enter into the evidence, from which it would appear, that various Committees were appointed to deviſe the means ultimately and finally depoſe the King.

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The indictment had gone farther, and ſuppoſing that was not true, it charged the Priſoner with a conſpiracy; not through the medium of a Convention but to levy war.

A conſpiracy to compel the King by force againſt his will, to give his aſſent to a law, was an act of Treaſon to alter the government and frame of the Conſtitution.

A conſpiracy to overawe the King, to force him to give his conſent to ſuch a law, was unqueſtionably an overt act of Treaſon, to depoſe him and compaſs his death.

He ſaid, he thought it neceſſary to ſtate ſo much before he came to the circumſtances of the caſe. It was his duty, he conceived, to ſtate the law as applied to the facts that would be given in evidence; and he had ſtated the law faithfully as he believed it to be.

It might be aſked, would any man in his ſenſes believe that ſuch Societies could poſſibly overturn the Conſtitution of this Country by alienating the affections of the ſubjects from their allegiance to their Sovereign? If there were any ſuch perſons preſent, he wiſhed them only to recollect what a few thouſand men, who formerly met in St. George's Fields, did. Let them remember what the Jacobin Club in France did. He ſaid, Britons were diſtinguiſhed by the bleſ-

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ngs they enjoyed, as by their ſituation. "Britannos toto orbe diviſos."

The Jury would obſerve, that what was charged was ot the extent to which the project had proceeded. If he Jury were ſatisfied that it was intended, and that one ngle ſtep was taken upon it, it was enough.

In the latter end of the year 1791, the principles of he French Revolution were imported into this country. Thoſe who wiſhed to propagate thoſe principles in this ountry, addreſſed themſelves principally to the poor nd debauched, the ignorant, and thoſe whoſe education id not enable them to diſtinguiſh between truth and niſrepreſentation; and after they had been ſucceſsful n inſtilling thoſe principles into ſuch people, they admitted them into their Societies.

The people in this country in general, have an ttachment to the Conſtitution; but thoſe perſons who viſhed to create diſcontent, deſcribed the oppreſſion hich the people of this country, as they alledged, laoured under, high taxes, &c.

They then told them about the unalienable Rights of Man, and about a full and fair repreſentation of the peole in Parliament. The word Parliament was uſed nder Cromwell, during the Common-wealth. They ever mentioned the King or Lords but to abuſe hem.

The Attorney General here obſerved, that the two

principal Societies, to the proceedings of which, during the laſt two or three years, he wiſhed to direct the attention of the Jury, were the London Correſponding Society, and Society for Conſtitutional Information. Theſe two Societies correſponded together, and alſo affiliated with a great number of different ſocieties in the country. Some of theſe ſocieties profeſſed one ſet of principles, and ſome another.

The Priſoner at the bar was ſecretary to the London Correſponding Society, and in that character wrote or ſigned a number of letters, that were ſent to other ſocieties. But the ſignature of Thomas Hardy, to ſome of theſe letters, was in the hand-writing of John Horne Tooke.

The Attorney General here went into a very full and able detail of the correſpondence of theſe two ſocieties, and of the many other ſocieties in different parts of the country, with whom they correſponded, remarking, that though until of late, they concealed their real deſigns, under the veil of Parliamentary Reform, yet he would endeavour to prove, that thoſe ſocieties wiſhed, in fact, to overturn the whole Conſtitution and Government of this country.

This he ſhewed, among other things, from their voting their Thanks to Thomas Paine, for certain parts of his works, in which he deſcribed himſelf to be an enemy to hereditary monarchy, and in which he compared the ſubjects of Kings to cattle and ſheep.

It was therefore clear, that while they thanked him for

for theſe works, and wiſhed to ſee the doctrines therein contained ſpread over the globe; it was wiſhing, in truth, for the deſtruction of the Britiſh Conſtitution, which they affected to be anxious to purify and reform.

He ſtated, he could not ſay for certain, that the Societies in England offered their aſſiſtance to the Societies in France, but thus much was certain, that thoſe of France, in many caſes, proffered their aſſiſtance to thoſe in England. The object they purſued he underſtood to be the ſame.

A letter from a departmental Society on the Rhone fully explains what they conceived to be the object of their Engliſh friends:—"It expects ſoon to ſee their own example followed;" and adds, "doubtleſs the Court of St. James's will meet the ſame fate as the infamous Court of Verſailles-"—"We have hands, we have bayonets and pikes," ſay they, "to aſſiſt the friends of Liberty."

Theſe ſentiments were received with applauſe, and heard with complacency, by thoſe men who would deny any intention of uſing force for the atrainment of their purpoſes.

From the tenor and complexion of the whole proceeding, a man might be induced to believe it was the production of Paine or Barlow; men, whoſe principiples

ciples muſt, by this time, be thoroughly underſtood.

If this needed further confirmation, the Addreſs preſented by the Societies, to the Convenrion of France would give it.

The Preſident there addreſſes Mr. Froſt by the title of "a good Republican;" and they, by their reſolutions, have adopted and ſanctioned every thing he had done. It is well known, and a matter proved, that at the time of Mr. Froſt's return from Paris, he diffuſed the doctrine of "No King."

He had now paid the forfeiture inflicted by the law for his ſeditious breach of them; and yet, ſo far from acknowledging the propriety of the deciſion, the Societies had, by their reſolutions declared that he had merited their eſteem, by the perſecution and proſecution he had undergone in the cauſe of Liberty.

What was this perſecution and proſecution which they complained of? It was that puniſhment duly inflicted by the law, for a crime which had been fully proved before the known and eſtabliſhed tribunal of this kingdom.

As a further evidence of what were the opinions of thoſe men who pretended to wiſh only a reform without any violence, he read a letter from Mr. Froſt, dated from Paris, ſome days after the cataſtrophe which took

took place there on the 10th of Auguſt, wherein he expreſsly ſays, "The affair of the 10th was what ſaved the liberty of France: without it liberty had periſhed.

Gentlemen would recollect, that was the day on which the unfortunate Monarch of that country was depoſed, and the Monarchy totally ſubverted. It waa not themſelves alone who had tranſmitted addreſſes to France, but by all poſſible means they endeavoured to excite others to imitate them. It was one grand object with them to procure others to join in addreſſing and making a common cauſe with France.

His learned friend might object, and he knew he would make the objection, that at the time they were tranſmitted, we were not at war with them. That was true. Hoſtilities were not commenced; but in fact, by one of their decrees of a previous date, they had declared themſelves at war with every government in Europe.

There appeared a letter from Mr. Tooke to the Mayor of Paris, which requires that ſome perſon in London might be appointed to receive thoſe ſubſcriptions which they had collected for them in this country; and informs them, that their friends on this ſide the water were many, and hoped they would be adequate to the completion—Of what? Of their common cauſe.

Look into their addreſs, we there find,——"That

FRENCH-

FRENCHMEN are already free, and Britons are preparing to become ſo." Again, "With unconcern, therefore, we behold the Elector of Hanover join his troops to traitors and robbers; but the King of England will do well to remember, that this country is not Hanover—Should he forget this diſtinction, we will not."

Theſe circumſtances, and the fact of a correſpondence abroad, excited a conſiderable degree of alarm in the minds of many, though it could never be known, until lately, to what extent it had proceeded. The Correſponding Society themſelves felt the neceſſity of ſome attempt to calm the public mind.

They accordingly publiſhed a Declaration of their Principles. This, he maintained, in fact, was not at all calculated to wipe away any ſuch impreſſion. Ten Thouſand copies were ſtruck off, and were to be diſtributed amongſt their correſpondents, and to be ſtuck up, at midnight, in the various parts of the town. He would here introduce a remark, which was to call the attention of the Jury to the various manœuvres practiſed in the diſtribution of their ſeveral libels, ſo as to render it impoſſible that the law ſhould be equally extenſive s th e miſchief.

They were publiſhed without either the name of the author or the printer. They were uſhered into the world during the darkneſs of night; though they were many of them productions of men well able to bear the face of day. For he muſt admit, many men of underſtanding were concerned in their compoſition.

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Whether they had exerted their underſtanding well or ill, was a queſtion which he muſt not determine. If they could not be conveniently publiſhed on this ſide the Tweed, they were on the other! ſo that the law could not extend the remedy equal with the grievance.

To revert to their juſtifying declaration, they declare "They will not prove unworthy of their forefathers, "ſhould they be diſappointed in their aims."

He next noticed the addreſs to the People of Manchester, which was in the hand-writing of Mr. Tooke, and which contained this paſſage, "Ceaſe to call laws "equally open to the rich and poor, and deſiſt from "panegyricks upon you rotten Conſtitution. The "poor feel no benefit, and they are hoſtile to the rights "of the people."

He came now to another material part, where they began to combine principle with practice, according to the doctrines of Mr. PAINE.

After their declaration of the 6th of Auguſt, 1792, wherein they confeſs they have no hopes from Parliament; after that period they began to ſtrengthen themſelves by affiliation with other ſocieties, and develope their plan of a Convention.

From various parts of their correſpondence with other ſocieties, it appeared the ſubject of a Convention was frequently canvaſſed, and materially deliberated. There were three propoſitions ſubmitted to the judgment of the

the country ſocieties, viz. Petition to Parliament; Addreſs to the King, and the Plan of a Convention.

They ſtate, that they have little hopes from a Petition to Parliament; and the Addreſs to the King was totally excluded. A Convention was the plan that ſtruck them the moſt forcibly.

By a letter from the United Political Society at Norwich, it appears that they approved of the Convention, but they doubted whether the people were yet ripe for it. "The democracy (they ſay) is become more matter of privilege and property, and the Convention would be the moſt deſirable thing and practicable; but they doubt the people have not ſufficient courage for that meaſure."

At a Metting of the 18th of January, 1793, would be found the following reſolutions:

"Reſolved, that Citizen St. Andre, a Member of the National Convention of France, being conſidered by us as one of the moſt enlightened friends of human liberty, be admitted an aſſociated honorary Member of this Society.

"Reſolved, that Citizen Barrere, a Member of the National Convention of France, being conſidered by us as one of the moſt enlightened friends of human liberty, be admitted an aſſociated honorary Member of this Society.

"Re-

" Reſolved, That Citizen Barrere, a Member of the National Convention of France, being conſidered by us as one of the moſt enlightened Friends to human liberty, be admitted an aſſociated honorary Member of this ſociety.

" Reſolved alſo, That Citizen Roland, being conſidered by us as one of the moſt enlightened Friends to human liberty, be admitted an aſſociated honorary Member of this ſociety.

It was alſo reſolved, That the Speech of Barrere, containing the functions and powers of a Convention, ſhould be entered into their books.

The Attorney General here recited the arguments uſed by Barrere, and urged, by the Correſpending Societies having adopted them, they were evidence of what their opinions and intentions were. " A Convention was ſtated to be ſuperior to a legiſlative power, becauſe it was derived from the people, from whom all power emanated. It concentrated in itſelf all the powers of Government, and was the people acting by their repreſentatives. It was upon the queſtion of the inviolability of the King, where he aſſerted the people, by their inſurrection, had repealed that inviolability, inaſmuch as it amounted to a revocation of their tacit conſent; and the inviolability of the king could only be as againſt the other branches of the legiſlature, and not againſt the ſovereignty of the people."

He thanked God, he ſaid, that they had ſeen an

inſurrection in this country; otherwiſe, inſtead of hearing him relate thoſe doctrines in a Court of Juſtice, they might, perhaps, have heard them in the Britiſh Convention, as principles to be acted upon. By the conſtitution of this country, the king was inviolable, but this inviolability was not to be incompatible with private happineſs or ſecurity, becauſe he could never do any thing without adviſers, and thoſe adviſers were not inviolable.

The fair reſult and conſequence of the reaſonings brought forward by them, ſtrongly went to prove their object to be the ſubverting the government of the country. A Convention was not to prepare a petition for Parliament, becauſe, on their ground, the Parliament was a body conſtituted in ſuch a manner, as not to be able to grant what they deſired.

All their reaſoning went to prove, that a Convention of the people was the only legal and proper mode of redreſſing grievances; and, in all their proceedings, we trace the deſign of eſtabliſhing a Convention, and endeavouring to call that "A Convention of the People."

He came now to another material part of the correſpondence, which went to ſhew the connexion between the ſocieties here, and the Convention in Scotland. Delegates were appointed to attend there, and a correſpondence enſued between ſeveral ſocieties in the country, and the Correſponding Society in London.

On the 28th of June, 1793, a letter from Norwich, and an anſwer was tranſmitted by the Priſoner, ſigned

with his name, wherein he "adviſes them to be orderly, and well prepared for the event; that the Mercenaries were now landed; and they ought not to wait until their throats were cut." This alluded to the landing of the Heſſians, who at that time were diſembarked on the coaſt of England; and that, which was but a matter of humanity and hoſpitality to men who were in fact dying, without the poſſible means of breathing freſh air on board the tranſports, was by this man converted into an object of alarm, and wiſhed to be repreſented as a thing of dangerous import. But the matter did not reſt here; and he deſired the particular attention of the Jury to what followed: "We will not ſhew ourſelves mob or rabble, but an injured and oppreſſed people, in whom the valour of our forefathers is not totally extinct."

He next proceeded to ſtate the meaſure adopted to the formation of the Britiſh Convention, which lately ſat at Edinburgh; the general complexion of which he ſtated to be as already deſcribed. They called themſelves the Convention of the People, and if thoſe perſons who had been tried for miſdemeanor only, had been treated as traitors, he thought the law would have warranted it.

They had proceeded to reſolutions deſtructive of all government; either they were ſubordinate to government, or government to them; but the whole of their reaſoning attempted to prove the latter, and their reſolutions went to put it into practice.

But before he proceeded to notice their proceedings in this Convention, he would notice the inſtructions given to the Delegates from the two Societies in London; the Correſponding Society, and that for Conſtitutional Information. The latter had directed their Delegates to ſupport the cauſe of Reform, by all conſtitutional means; what thoſe means were, had already appeared; and if it was evident the mode they purſued was illegal and unconſtitutional, it little availed that they uſed the word conſtitutional as a veil to their real purpoſes.

The other ſociety had been more explicit in its directions, and directed its Delegates to the two points of Univerſal Suffrage and Annual Parliaments.

One of the firſt reſolutions which paſſed in the Convention, was, to reſiſt the Parliament, ſhould it proceed to ſuch and ſuch certain acts.

Viewing the late bill paſſed in Ireland for the prevention of Conventions having illegal objects, they reſolved, "That a Committee of Obſervation be appointed in London, to give the earlieſt information of the kind mentioned in the former ſection. And what was the information required? Why, immediately that the Legiſlature ſhould proceed to certain acts, that they would take meaſures to oppoſe them. If, for inſtance, they ſhould proceed to a Convention Bill, which Citizen Gerald had called, "A parchment piece of Juſtice," or to any thing which they conceived was wrong there, that they act in oppoſition. For this purpoſe, the

the whole ſyſtem of modern French polity was here introduced.

They divided into ſections, formed committees, and amonſt others, a Committee of Secrecy and Co-operation; the object of which was, to rally the Convention, ſhould they be what they term, "illegally diſperſed."

It is already well known what ſteps the magiſtracy of that country took, and what was the reſult of their efforts.

We had now to return, and view the ſame plan, or a part of the ſame plan in England.

At a Meeting on the 17th of January, the following Reſolutions were entered into:

"Reſolved, That law ceaſes to be an object of obedience, whenever it becomes an inſtrument of oppreſſion.

"Reſolved, That we call to mind, with the deepeſt ſatisfaction, the merited fate of the infamous Jefferies, once Lord Chief Juſtice of England, who, at the æra of the Revolution, for the many iniquitous ſentences which he had paſſed, was torn in pieces by a brave and injured people.

"Reſolved, that thoſe who imitate his example deſerve his fate."

This

This Reſolution, the Jury would immediately perceive, was meant to be directed to the Scotch Judges, and this would be further confirmed by the following:

"Reſolved, That the Tweed, though it may divide countries, ought not, nor does not, make a ſeparation between thoſe principles of common ſeverity in which Engliſhmen and Scotchmen are equally intereſted. That injuſtice in Scotland is injuſtice in England: and that the ſafety of England is endangered, when their brethren in Scotland, for conduct which entitles them to the ſupport of all wiſe and brave men, are ſentenced to Botany Bay—a puniſhment inflicted only on Felons.

"Reſolved, That we ſee with regret, but we ſee without fear, that the period is faſt approaching, when the liberties of Britons muſt depend, not upon reaſon, to which they have long appealed, nor on their powers of expreſſing it, but on their firm and undaunted reſolutions to oppoſe Tyranny by the ſame means by which it is exerciſed.

After this, on the 20th of January 1794, there was a General Meeting at the Globe Tavern, in which they reſolved to ſend forth an Addreſs. The Addreſs was accordingly framed, in which they ſtate themſelves to be aſſociated for the purpoſe of obtaining a full, free, and perfect repreſentation of the people.

"How is this object to be obtained? They ſay, "this is a queſtion we have aſked before; and to us a National Convention ſeems the only adequate remedy—we ſhall never

never obtain it," (and thus they go on to characterize the Legiſloture of the country) "from our enemies, plunderers and oppreſſors." Their toaſts after dinner were ſtronger evidence of their opinions.

It was almoſt ſinking into inſignificance, to mention ſuch a thing as a toaſt, in a great national queſtion like the preſent, but in fact, they had a Committee to frame ſuch toaſts as they judged moſt expedient to inflame the minds of thoſe preſent. Citizen Martin was in the chair at this meeting, and in a letter under his hand he gives an account of it: He ſays their reſolutions were tolerably ſtrong; and a paragraph informs his correſpondent that the King had gone to meet HIS Parliament.

He next noticed the meeting at Chalk Farm, and obſerved it was in conſequence of the plan of the Committee of Correſpondence and Co-operation, and a gradation in their plan of aſſembling a Convention.

It was ſingular, that on the ſame day, there were ſeveral other meetings in the open air, at ſeveral other parts of the kingdom; and it would be found, that the Priſoner at the bar had ſent circular letters to the remoteſt parts of the kingdom, containing the project of a Convention.

It was alſo worthy of remark, that when it was ſignified, that the Friends of the People would not join in the plan of a Convention, it was received by a very large audience, with a univerſal groan.

An

An account of this meeting was alſo found in a letter of a very active Member, Mr. Thelwall, who avowedly ſtiles himſelf a Republican and active Sans Culotte.

If, in addition to theſe caſes, the Jury ſhould find that arms had been prepared, and military ſocieties formed; that the guillotine was talked of as an inſtrument to be introduced; and that the head of our King was to fall by it: that after the meeting at Chalk Farm, Mr. Thelwall cut off the froth from a pot of porter, with theſe words, "Thus would I ſerve all Kings;"—then ſurely they would give that verdict which was due to their country and themſelves. If, on the contrary, this caſe, after an attempt to prove it ſhould not be ſo made out as to convince them, then he would join in the prayer of the law, "God ſend the priſoner a ſafe deliverance.

As ſoon as the Attorney General concluded his ſpeech the Lord Mayor and Judges retired to take ſome refreſhment, leaving the Jury in their box.

On their returning back to the Bench, they ordered the firſt Witneſs—Thomas M'Lean, to be called; who ſaid. he was a King's Meſſenger, and had ſeized ſeveral books and papers at Adams's, which he kept in his own poſſeſſion till he marked them—Proved a letter of Hardy's, of 27th of March, 1794, which was read.

John Gurly and Alexander Grant were then called—one

one to prove the ſeizure of Hardy's papers, the other, Hardy's hand-writing—when

Mr. Bowes, Council for the Crown, ſaid, that he would now go chronologically through the papers and other written evidences.

Mr. Erſkine ſtated to the Court the importance which it was to his Client to have the whole of the written evidence on the part of Crown for conſideration; he therefore ſubmitted to the Court, that the Counſel for the Priſoner ſhould be allowed to take copies of the written evidence, otherwiſe they muſt requeſt to have it read ſufficiently ſlow for them to take it down.

The Court aſſented to their having the copies.

Edward Lauzun ſworn, examined by Mr. Bowes, ſaid, he was a King's Meſſenger; he went to the houſe of the Priſoner on the 12th of May, and ſeized the ſeveral papers which follow. Mr. Grant was ſhewn one of the papers, which he believed to be the Priſoner's writing; it is a copy of a letter to Mr. Buchanan, at Edinburgh, dated Auguſt 20, 1792. The Letter was read; it was ſigned "Thomas Hardy, Secretary."

A paper directed to Mr. Jackſon, Secretary to the Mancheſter Conſtitutional Society, dated Sep. 4, 1792, and was ſigned "Thomas Hardy, Secretary."

A letter to Mr. Favell, Chairman of the Borough

Society, dated Auguſt 23, 1792, and ſigned "Thomas Hardy, Secretary."

A copy of a letter to Major Cartwright, Chairman of the London Conſtitutional Society, dated Auguſt 23, 1792, ſigned Thomas Hardy, Secretary. and Maurice Margarot: it was ſtated to be in Hardy's hand-writing.

The addreſſes incloſed in the above were then read; they were ſigned "Thomas Hardy."

The tendency of theſe addreſſes was to ſhew the inequality of Parliamentary Repreſentations, and to excite the People to aſſert their Rights, and to obtain a Reform.

A letter dated September 11, 1791, to the Secretary of the Friends of Univerſal Peace and the Rights of Man, at Stockport, ſigned Thomas Hardy; and the anſwer to the ſame from Stockport, dated 27th September, 1792.

A letter dated London, 11th October, 1792, to the Society of the Friends of Peace and the Rights of Man.

William Woodfall ſworn, ſaid he knew Mr. Horne Tooke's hand-writing. A paper was ſhown him—he ſaid he did not think the main part of it was in Mr. Tooke's writing, but there was interlineations of that Gen-

Gentleman's writing. The paper was the original plan of the London Correſponding Society.

Mr. M'Leane, a King's Meſſenger, was ſhewn a paper, which he ſaid he found in the houſe of Mr. D. Adams.

Mr. Grant ſaid the ſignature was, he believed, Mr. Hardy's writing. It was dated the 18th of October, 1792, and directed to D. Adams, Secretary to the Society for Conſtitutional Information. It contained the plan of an addreſs of the London Correſponding Society to the French Convention.

A letter dated Octob. 15, 1792, directed to Maurice Margarot, Chairman of the London Correſponding Society, ſigned D. Adams, Secretary, found in Hardy's houſe.

A letter dated October 10, 1792, to Mr. Walker, Chairman of the Mancheſter Conſtitutional Society. It contained the plan of the addreſs to the French Convention. It was from the London Correſponding Society, and ſigned M. M. Chairman.

A letter dated London, 11th October, 1792, to the Revolution Society at Norwich, containing a plan of the addreſs to the French Convention, ſigned M. M, Chairman of the London Correſponding Society.

A letter dated London, 19th October, 1792, to the

Derby Society for Conſtitutional Information, recommending the Addreſs to the French Convention, ſigned M. M. Chairman of the London Coreſponding Society.

A letter dated London, October 18, 1792, to the London Correſponding Society.

A letter to the Priſoner, from the Society for Political Information, ſigned George Knapp, Chairman.

A letter dated London, November 26, 1792, ſigned M. M. Chairman of the London Correſponding Society to the Preſcot Society.

A letter dated London, February 1ſt, 1793, to the Friends of the People from the London Correſponding Society.

A letter dated 25th February, 1793 directed to Thomas Hardy, Seeretary to the London Correſpondent Society, from the Society of the Friends of the People.

A letter, appearing by its contents to be an anſwer to the laſt, but without date or ſignature.

Mr. Grant examined by Mr. Garrow.—I am a Printer. I became a Member of the London Correſponding Society in the beginning of the year 1792. The meetings of the diviſion to which I belonged, uſed to be at Mr. Boyd's in Exeter-ſtreet.

The

The following perſons uſed to attend the meetings of that diviſion: Mr. Margarot, Mr. Hardy, Mr. Richter, Mr. Murray, Mr. Boyd, &c. I was applied to about the middle of that year, by a Mr. Gow, a Member of the Society, to print ſome bills, which I refuſed to do; but afterwards I did print ſome bills for them. The Priſoner Hardy paid me for 500 poſting bills which had been ordered by the Society, and ſent home to Mr. Hardy's houſe; they were afterwards returned to my houſe, and delivered from thence, I believe, to a perſon of the name of Carter.

The Priſoner afterwards told me that Carter was taken up for ſticking up theſe bills in the ſtreets.

[One of theſe bills was ſhewn to the wineſs, which he ſaid, was one of thoſe he had printed.]

I had afterwards an order to print ſome more bills, which I refuſed to do. I had declined attending the Society for ſome time previous to this.

Mr. Margarot was Preſident of the Delegates, and the Priſoner Hardy was Secretary to the Correſponding Society at large.

The following papers were alſo found in the Priſoner's houſe and read:

An addreſs of the London Correſponding Society, to the other Societies of Great Britain

A let-

A letter dated 4th March, 1793, from the London Correſponding Society, to Mr. Cammage of Sheffield.

A draft of a letter found in the poſſeſſion of Hardy, dated April 17, 1793; the original was found in the poſſeſſion of Mr. Skirving at Edinburgh, ſigned Thomas Hardy.

The anſwer of Mr. Skirving, dated Edinburgh, 25th May, 1793.

A letter dated London, 10th June, 1793, to the Conſtitutional Society, Birmingham, from the London Correſponding Society.

A letter dated the 25th of June, 1793, to Mr. Hardy from the Norwich Society, ſigned Buckler. The draft of the anſwer to the above, from the London Correſponding Society.

The clerk was proceeding to read ſome other papers, when

Mr. Erſkine roſe. He ſaid, he wiſhed to aſk the gentlemen who conducted the caſe on the part of the proſecution, whether there was any probability that their evidence would be finiſhed within ſuch a period of time as it was poſſible for the human attention to extend to. With reſpect to himſelf, he was not fatigued, and was willing to proceed with the trial, if the court wiſhed it. But if there was no probability of the evidence on the

the part of the Crown closing within any reasonable time, and an adjournment must at some time take place, he begged humbly to suggest to the court the propriety of adjourning then (twelve o'clock.)

The Counsel for the Crown said, they had not gone half through their written evidence.

Lord Chief Justice Eyre said, this was a matter of the greatest importance: it certainly was a general rule of law, that when a trial had commenced, the Jury should not separate until the case was decided.

Upon the whole, his Lordship was of opinion, that if the Council for the Prisoner, on the part of his client, made an application for an adjournment, and it was consented to on the other side, he saw no reason why an adjournment should not take place. The only difficulty was with respect to the Jury.—The sheriffs had shewn much attention upon this subject, and had provided every accommodation for the Jury; but his Lordship wished to hear the opinions of his brothers upon this point.

The Sheriffs said, they had prepared the best accommodation in their power for the Jury.

Mr. Erskine stated the very delicate situation in which he was placed, entrusted with the defence of the Prisoner's life; but he should not hesitate to consent to the separation of the Jury, taking their solemn word of honour not to speak to any person on the subject of the case

caſe—And added, that if he could not truſt their words in ſuch a caſe, he ſhould have but little confidence when he addreſſed them upon their oaths.

The Lord Chief Baron thought the practice of not ſuffering the Juries to ſeparate very proper. If it were neceſſary to deviate from the general rule, he wiſhed to deviate as little as poſſible; and however unwilling he was to incommode the Jury, he thought it might be productive of bad conſequences in the preſent caſe, and hereafter to permit them to ſeparate.

The Jury expreſſed their deſire of being permitted to go to their reſpective houſes.

Baron Hotham ſaid, he knew of no inſtance of the Jury ſeparating pending ſuch a trial, and thought it ought not to be done now.

Mr Juſtice Buller ſaid, there was a gentleman upon the Bench who recollected an inſtance of the Jury ſeparating upon an adjournment.

Mr. Alderman Newnham ſaid that circumſtance had occurred in Canning's caſe.

The ſheriffs ſaid, they had provided beds and mattreſſes for the Jury in the Old Bailey.

The Chief Juſtice ſuppoſed the Jury would require nothing more than mere refreſhment, and requeſted the ſheriffs would take care they were accommodated. He was

was ſorry to compel them to ſtop, but he could not avoid it.

Four Officers were then ſworn in to attend the Jury, and take care they had no communication.

After a ſhort converſation between Mr. Erſkine and the Court, reſpecting his being allowed a ſhort time after the proſecutors had finiſhed, to examine the different papers, the court adjourned at a quarter paſt twelve until ſeven o'clock this morning.

(We have merely ſtated the Title of the differant Papers read, as they were infinitely too voluminous to detail at large—They may be ſeen by a referene to the Report of the Secret Committee of the Houſe of Commons).

SECOND DAY.

October 29, 1792.

THE Court ſat at a quarter paſt eight o'clock, and proceeded in the written evidence on the part of the proſecution.

The firſt witneſs produced was one John Gurnel, who, on being ſhewn a letter ſigned "Thomas Hardy," ſaid he believed it was the hand-writing of the Priſoner at the bar.

This letter was dated October 5th, 1793, and ſent to Mr. Skirving, at Edinburgh.

The next letter that was read was from Mr. Wm. Skirving, in Scotland, to Mr. Hardy, in which he inſiſts on the neceſſity of Univerſal Suffrage, and Annual Parliaments. And that two perſons ſhould be ſent from each of the Societies in England, as Delegates to the Convention that was held in Scotland.

Mr. Scott, of the Sheriff's Office, at Edinburgh, proved, that another letter, ſigned "Hardy," was found among Skirving's papers, when they were ſeized at Edinburgh. A Printer, of the name of Grant, proved the ſignatbre to the letter to be in the hand writing of T. Hardy.

This

This letter was directed by him to Skirving in Scotland, in anſwer to the letter he had received from him, in which he informed him, that he had requeſted a general meeting of the London Correſponding Society, for the purpoſe of taking into conſideration the meaſure ſtated in Skirving's letter; that the Society had actually met, and had elected Maurice Margarot and Joſeph Gerald, as Delegates to be ſent to the Convention to be held at Edinburgh.

The next letter that was read was dated London, 24th Oct. 1792, ſent by Hardy to Skirving, in which he informs him, that the London Correſponding Society had given their delegates Margarot and Gerald, inſtructions how to conduct themſelves in their miſſion, and that they ſhould, upon no account, depart from their original object and principles of the ſociety.

They were directed, among other things, to ſupport the obtaining Annual Parliaments and Univerſal Suffrage, by natural and lawful means. They were directed to ſupport the opinion that the election of ſheriffs ought to be reſtored to the people; that Juries ought to be choſen by ballot; that it was the duty of the people to reſiſt any act of parliament which was clearly repugnant to any principle of the conſtitution. And the ſociety required that its delegates ſhould be punctual in its correſpondence with them.

This letter was ſigned "R. Hodgſon, Chairman." "T. Hardy, Secretary."

Another letter that was read in evidence, was dated Edinburgh, Tueſday, Dec. 2, 1793."

This letter was ſent to Thomas Hardy, by Meſſrs. Gerald and Margarot, while they in the character of delegates from the London Correſponding Society, were attending the Convention then ſitting at Edinburgh.

In this letter they inform Mr. Hardy, that the Convention proceed with great ſpirit. Say they, "We ſit daily, and laſt week we came to a reſolution, which we fancy will give pleaſure to every Friend of Reform.

As the minutes are to be printed, we will at preſent only give you the heads of it, viz. That ſhould any attempt be made by government for the ſuſpenſion of the Habeas Corpus Bill, the introduction of a Convention Bill, or the landing of Foreign troops in Great Britain or Ireland, the Delegates are immediately to aſſemble in Convention, at a certain place, the appointment of which is left with a Secret Committee.

That when ſeven delegates ſhall be thus aſſembled, they ſhall declare themſelves permanent; and when their number amounts to twenty-one, they ſhall proceed to buſineſs. Thus, you ſee, we are provided againſt what may happen.

Our time is ſo conſtantly employed, that we find it abſolutely impoſſible, as yet, to write to you more than once a week, und even that on no fixed days. Eighteen

teen hours out of the four-and-twenty are devoted to public buſineſs, and you may reſt aſſured they are not miſpent.

We are happy to hear that you go on ſo well in the South as we do in the North. Letters convey but very imperfectly, and with no great degree of ſafety, what we might wiſh to inform each other of. You have done us a material injury by neglecting to ſend us a parcel of our fublications, and a number of copies of the Jury-man's Right. Pray do not delay them any longer, and among them ſome of the letters to Dundas."

Another Letter from Margarot to T. Hardy, dated Edinburgh, 18th Dec. 1793, was alſo read in evidence. He ſays, "the Society will be able to diſcover, that our arrival in Scotland has been productive of great advantage to the cauſe, and at the ſame time has given great alarm to our enemies.

We are very much ſurpriſed at the remiſsneſs of the Society; while we are expoſing our Life and Liberty; while we are devoting our time and our exertions to their ſervice; while we are incurring numberleſs expences, and affronting dangers that would ſtagger the moſt hardy of them: while we are doing all this, we are moreover obliged to remind them of it, and that ſupplies are now become more neceſſary than ever. Surely the pecuniary exertions of any individual in the Society, can never be compared to our endeavours.

Ho-

Honoured with their confidence, we find ourſelves happy in being placed in the front of the battle; but let them remember, that our ſacrificing ourſelves will be of no uſe, unleſs they afford us a proper ſupport, and that moſt immediately.

Not daring any longer to truſt to the Poſt, we ſend you all theſe papers in a parcel. You will be ſo good as to make us acquainted with their ſafe arrival.

Gerald wiſhes to get to London as ſoon as poſſible. He will communicate that which cannot be ſo fully expreſſed by a letter. You may conſider this as a private letter, but you may read ſuch parts of it as you think proper to any Member of the Society, eſpecially where it may be productive of good.

You will ſee by the encloſed papers, that Power has proceeded in a moſt arbitrary manner; almoſt all, the prominent characters in the Convention have been, or are to be, apprehended or examined," &c.

Mr. Bower, on the part of the proſecution, ſtated, that they next propoſed to read the proceedings of the Scottiſh Convention.

Mr. Erſkine, as Counſel for the Priſoner, ſaid, he was not very anxious to ſhut out any evidence; but he could not conceive, as the caſe then ſtood, how the proceedings of the Scottiſh Convention could be evidence againſt Mr. Hardy.

They

They had already heard the hiſtory of that ſociety, of which Mr. Hardy was Secretary, and it would be for the Jury afterwards to ſay with what intention, and with what views, that Society was formed. That Society appointed two Delegates to attend that Convention.

The holding of that convention was not charged as an act imputed by the indictment But the Priſoner was charged with conſpiring with others, to form another Convention, long after the Scottiſh Convention was diſperſed.

If it ſhould turn out, that the Delegates from the London Correſponding Society, in a moment of heat had written any thing, or ſaid any thing; nay, he ſaid he would go farther, if Mr. Margarot, or Mr. Gerald, had ſaid or done any thing, not within the ſcope of their inſtructions, he apprehended that could not affect the priſoner at the bar.

The defendant was charged with compaſſing and imagining the death of the King. It was that wicked intention that was the foundation of the whole proceedings; and no act could be given in evidence, which did not ſhew the Priſoner at the bar had that wicked compaſſing. He did not know what they were going to read. It might not at all affect the priſoner at the bar. But ſtanding there, not only to defend the life of an innocent man, for ſo he had a right to call him, until he was found guilty, defending his own life, and the lives of all the people of England. If they could connect Mr. Hardy with the proceedings

of the Scottiſh Convention, his objection fell to the ground.

Chief Juſtice Eyre ſaid, he took it for granted, that they meant to do that, otherwiſe the proceedings of the Scottiſh Convention were of no conſequence. There was enough, in his Lordſhip's opinion, to let in the evidence. The application of it was quite another conſideration.

Mr. Solicitor General obſerved, that theſe two perſons, Gerald and Margarot were the agents of Hardy, and the reſt of the Society, and the evidence appeared to him to be extremely important.

The Clerk of the Arraigns accordingly read the proceedings of the Scottiſh Convention, for which ſee the Second Report of the Committee of Secrecy of the Houſe of Commons, and the Appendix.

James Davidſon was here called, and examined by Mr. Garrow, He ſaid he was a Printer. A paper was put into his hand. After he had looked at it, he ſaid he had printed a great number of copies of it, the manuſcript was brought to him by John Thelwall. One perſon was along with him when he brought it, but he did not recollect who it was.

Mr. Erſkine here aſked, what Mr. Hardy had to do with this evidence ?

Mr. Garrow obſerved, that there was a long chain of evidence

evidence to prove the exiſtence of a conſpiracy between Thelwall, &c. and the Priſoner at the bar. Thelwall brought that paper to the witneſs to be printed, and it was to operate in furtherance of the conſpiracy, and therefore applied to every one of the conſpirators.

Mr. Erſkine ſaid, he had no great anxiety about that piece of evidence. Mr. Hardy knew nothing of that paper. If his learned friend could ſhew that Mr. Hardy knew of it, *cadit queſtio*. Suppoſe that paper contained a crime, would their Lordſhips fix that crime on Hardy? It would certainly apply as againſt Thelwall himſelf.

Chief Juſtice Eyre obſerved, that this paper, containing Reſolutions which was brought to the Printer by one of the Members of the Society, the Priſoner being another Member of the Society, and acting as the Secretary, they were therefore both involved in the proceedings of that Society. And that being a paper produced by one of them, and they being both charged with a conſpiracy, that paper was evidence to prove a circumſtance in that conſpiracy. Whether it would be ultimately brought home to Hardy was quite another queſtion.

The witneſs, Davidſon, ſaid, that Thelwall, had ordered him to print two hundred copies of that paper, and then to ſtop. He accordingly printed two hundred copies of it that day, and carried them to the Globe Tavern. Heemet Mr. Hardy on the ſtairs; he knew him before that time. He, the witneſs, was a

member of this ſociery, was ſometimes at their meetings, and had ſeen Hardy there in the character of Secretary. When he met him on the ſtairs, he told him he had brought two hundred copies of the Reſolutions. Hardy told him to take them away again, and not to diſtribute one of them. He accordingly did, and returned to the Globe Tavern to dinner. He was not preſent when thoſe reſolutions were voted. Some perſon from the Globe Tavern ſent to his houſe for them, and brought them to the meeting. He only ſaw one of them handed about there. In the courſe of a week he printed three thouſand of them, according to Thelwall's orders. He carried a great many of them to Mr. Hardy, and ſome of the members of the Correſponding Society came to his houſe, and aſked for a dozen or two. To the beſt of his recollection he printed ſix thouſand. Hardy gave him orders to go on with them, till he ſhould be deſired to ſtop; which he believed was in the month of March. Until that time he went on printing them, now and then, and printed in all about eight thouſand. He had not been paid for them. Nobody had promiſed to pay him for them. He put them down to the credit of the ſocsety: he had made the ſociety debtor for them. He had printed others for the ſociety before, and had been paid for thoſe by Mr. Hardy.

The paper was here read, and, among a great variety of other things, contained a number of reſolutions, and of toaſts and ſentiments, in which John Martin was ſuppoſed to be concerned.

The

The witneſs ſaid, he had been at Martin's houſe, but that he did not know him much. He had alſo ſeen him at ſome of the meetings of the ſociety, but did not know whether he was a member or not; he could not tell whether any perſons were admitted who were not members. He afterwards acknowledged, that perſons were ſometimes admitted, though they were not members.

The reaſon why he called at Martin's houſe was, to ſpeak to him about the toaſts and ſentiments in the paper alluded to. The witneſs told Martin that he thought there were ſome hard words in the reſolutions. Martin ſaid, No; it was all conſtitutional.

The following letter was alſo read; it was dated March 27, 1794, and ſigned, "Hardy."

"CITIZEN,

"I am directed by the London Correſponding Society, to tranſmit the following Reſolution to the Society for Conſtitutional Information, and to requeſt the ſentiments of that Society, reſpecting the important meaſures which the preſent juncture of affairs ſeems to require.

"The London Correſponding Society conceives that the moment is arrived, when a full and explicit declaration is neceſſary, from all the Friends of Freedom, whether the late illegal and unheard-of proſecutions and ſentences ſhall determine us to abandon our cauſe or ſhall excite us to purſue a radical Reform, with an ardour proportioned to the magnitude of the object, and with a zeal as diſtinguiſhed on our parts, as the treachery of others, in the ſame glorious cauſe is notorious.

The Society for Conſtitutional Information is therefore required to determine whether or no they will be ready when called upon, to act in conjunction with this and other Societies to obtain a fair Re-

preſentation of the People. Whether they concur with us in ſeeing the neceſſity of a ſpeedy Convention for the purpoſe of obtoining, in a Conſtitutional and legal method, a redreſs of thoſe grievances under which we at preſent labour, and which can only be effectually removed by a full and fair Repreſentation of the People of Great Britain.

The London Correſponding Society cannot but remind their friends, that the preſent criſis demands all the prudence, unanimity, and vigour that ever may or can be exerted by men and Britons; nor do they doubt, but what manly firmneſs and conſiſtency will finally, and they believe ſhortly, terminate in the full accompliſhment of all their wiſhes.

"I am, Fellow Citizen,

"(In my humble Meaſure)

"A Friend to the Rights of Man,

"T. HARDY."

Richard Williams was next called as a witneſs, he ſaid he knew John Thelwall, and on looking at the ſignature on a written paper, he believed it to be Mr. Thelwall's hand-writing.

Mr. Garrow ſtated to the Court the grounds upon which he propoſed to make it evidence againſt Hardy. He ſaid it contained ſeveral addreſſes and ſeditious ſongs, compoſed and ſung by Mr. Thelwall, in order to bring all the Conſtituted Authorities in the country into contempt. In this view he conſidered it as a ſtep in the conſpiracy, and, if ſo, he ſubmitted it was clearly evidence againſt Hardy.

Mr. Erſkine ſaid, his learned Friend could not ſhew that theſe ſongs had been ſung by Thelwall, and what Thel-

Thelwall did was one thing, and what he ſaid had been done was quite another thing.

Mr. Gibbs, Counſel for the Priſoner, ſaid he had no objection to the evidence, but that he did not know where it was to end. That evidence was produced againſt the Priſoner to prove the compaſſing and imagining the death of the King. There was no proof that Mr. Hardy was aware of that letter. He was at a loſs to gueſs to what point of the indictment it was directed.

There were three queſtions. 1ſt, Whether the Priſoner compaſſed or imagined the King's death? 2dly, Whether he compaſſed it by any of the overt acts ſtared in the indictment? And 3dly, Whether, ſuppoſing he had committed any of the overt acts, they were done with a view to compaſs the King's death? If that paper was evidence it muſt apply to one of thoſe three queſtions, and he was at a loſs to apply it to any of them.

Chief Juſtice Eyre had great doubt, whether that evidence ought to be admitted. He admitted, that where ſeveral perſons were involved in one conſpiracy, the act of any one of them, in order to effect the conſpiracy, may be imputed to them all. But Thelwall, in this caſe, only wrote to a friend, who was not a member of the ſociety, and therefore, his Lordſhip thought, the latter could only be conſidered as Thelwall's declaration, and ought not to be conſidered as evidence in this caſe. It was not like a fact done by Thelwall, which was a part of the tranſaction itſelf.

Mr.

Mr. Juſtice Buller ſaid, there were two things to be conſidered, 1ſt. Whether there was any conſpiracy, and what? and 2dly, What part the Priſoner took in it? His Lordſhip was of opinion, that it ought to be admitted as evidence, in conſidering what the deſign was. The queſtion was not upon the effect of the evidence, but whether it was admiſſible.

Mr. Juſtice Groſe was doubtful whether it ought to be rejected. Both of theſe parties were concerned in one plan; it was very material what one of them ſaid reſpecting that plan.

The Chief Baron conſidered this as only a relation of what paſſed to another in a private letter; and therefore his Lordſhip ſaid he was inclined to reject it.

Baron Hotham did not think that letter was fit evidence to be received here.

Chief Juſtice Eyre ſaid, after all he had heard, he ſtill retained his opinion. The letter was therefore rejected.

William Walker was next called. He ſaid he was an attorney, and that he knew John Martin and his hand writing. A letter was put into his hand, ſigned "John Martin," and the witneſs believed it was Martin's hand writing. That was dated June 22, 1794, and was addreſſed to Maurice Margarot, then in the Tolbooth of Edinburgh.

It ſtated, among things, "that Margarot's conduct received

received univerſal approbation. People are now ſubſcribing. They put their hands into the bottom of their pockets, and ſwear by G—d, you (Margarot) ſhall be ſupported by the laſt guinea, The King came down to his parliament. They ſat till ſix o'clock; only 12 members voted againſt the war. It was even reported that a woman being moved and ſeduced by the inſpiration of the devil, at St. James's Park, took off one of her pattens, which ſhe threw at the King's carriage, and whereby ſhe broke the glaſs and alarmed his Majeſty. God ſave the King; for if, as Gerald ſays, &c.

A letter dated the 9th of April, was then read. This letter was not printed; it appears to be a circular one, and contained a plan of a Convention.

The letter next read, was dated Norwich, Aprial 22d, 1794, and contained the following poſtcript: "Many of our friends are fully convinced of the neceſſity, legality, and rationality of a Convention; but, query, whether the time be expedient?"

Several other letters was read, from different parts of the country, to the Correſponding Society, of the following dates—May 11, 1794, from Sheffield—April 24, 1794. from the Britiſh Conſtitutional Society to the Preſident of the London Correſponding Society, which applaued and approved of the plan of a Convention. Another from Sheffield, and one from Briſtol; the general tenor of which were a coincidence of opinions with the Societies.

Mr.

Mr. Daniel Adams, late Secretary to the Society for Conſtitutional Information, was then called and ſworn.

Mr. Bower. Are the Books, now produced, the ſame that were uſed for entering the proceedings of the Conſtitutional Seciety; Yes.

Mr. Bower. Do they contain minutes of the buſineſs tranſacted in their meetings? They do.

The court then proceeded to read extracts from the minutes of their proceeding.

"June 6, 1792. Their Secretary was ordered to inform the London Correſponding Society, that they received, with pleaſure, their propoſal of aſſociating ſix of their members with this ſociety."

"July 20. At a meeting held at the Crown and Anchor, in the Strand, Mr. Froſt in the chair. A committe was ordered to take Mr, Paine's letter into conſideration, wherein he offered the ſociety one thouſand pounds in truſt, to be diſtributed by them."

"July 27. The committee who were appointed to take Mr. Paine's letter into conſideration, made a report, "That his offer ſhould be reſpectfully declined, and that the refuſal ſhould be accompanied with a letter, the ſubſtance of which was, That an enlightened mind, like his, deſerved all the profits of its productions, and it would be unjuſt to deprive him of them."

Mr.

Mr. Jordan ſworn.

Do you know the hand-writing of THOMAS PAINE? I never ſaw him write—though I have ſeen what I believe to be his writing. You were the publiſher of the Rights of Man? I was; I did not print them. Chapman printed them. You have received notes from him after the delivery of the copy? I do not recollect. You know his perſon? I have ſeen him. Paine is the author of the Book? He is. Is that the Book you publiſhed? I cannot tell; there were pirated editions. Have you no marks by which you can aſcertain it? I believe it came from my houſe; Chapman printed the firſt part of the Rights of Man, and the firſt part of the ſecond.

At a meeting on the 25th of September, 1792, of the Society for Conſtitutional Information, read a letter from T. Hardy, as Secretary to the London Correſponding Society.

It ſpoke their hearty abhorance of a connection with German deſpots, and hoped the name of Freemen would be ſufficient to counteract their deſigns.

To this letter an anſwer of thanks was returned.

Here the Judge addreſſed the Jury—As he could not flatter them that a ſhort period would enable them to go through any one deſcription of evidence, he adviſed them to withdraw for refreſhment.

At half paſt four o'clock the Jury returned, and the Court being reſumed.

Lauzen, the Meſſenger, was called in to prove the finding the firſt edititon of Paine's Book in the houſe of Hardy.

Then was read the Addreſs of Paine to the Convention of France upon his being elected Member of the Convention, and ordered to be diſtributed by the London Correſponding Society.

It ſpoke of the purity between the ſituations of America and France, and the work that was before them, the unconfined operation of liberty, and the impolicy of deſpots. It exhorted them to puniſh their enemies by inſtruction rather than revenge.

Thomas Chapman ſworn.

He depoſed that he had printed the whole firſt, and the former part of the ſecond part of the Rights of Man, as far as ſignature K. page 128 included. He did not finiſh the book, but returned the reſt to Paine.

The Clerk of the Arraigns then read ſeveral long extracts from the Rights of Man, which, from their variety and length, it will be impſſible to tranſcribe. The tenor of them went to prove the deſign of the author to make the Engliſh Conſtitution odious and ridiculous. The places from whence they were ſelected, were as follows: Page 54, "That no conſtitution exiſted in this

this country." P. 55, "That governments arising out of the people cannot alter; that any alteration must be made by a Convention of the People." P. 152. "That there were only two species of government, that by election and representation, and the hereditary; that the former alone were governments of liberty, and that the latter were slavery; that hereditary privileges, a hereditary crown, &c. were all systems of oppression and tyranny." P. 156. That the People have an inherent right to destroy any government whenever they please. That it would be as well to appoint a monk a Chief Magistrate as a King." Part II. Page 21. "That the government of this country, under the Henrys and Edwards, was as compleat a slavery as ever existed; that the Stuarts, in endeavouring to pass those precedents, had met with a well merited ——. In all this time there was no Constitution supposed to exist. That after that period a mongrel government was produced, which was introduced at the Revolution. That the Revolution was nothing but a compromise among the various parts of government, and the People were sacrificed; and the Bill of Rights was a Bill of Wrongs and Insults." P. 63. "That the two houses were influenced by the executive government, and that the minister touched the Commons with an opiate wand, and they slept obedience." P. 65. "All hereditary governments, are in their nature slavery." P. 107. That the Crown was a nominal office, with a million a year, and the chief business consisted in receiving the money." P. 161. "That the hypocrisy of government was following the fate of chivalry," The whole dedication and preface were also read.

After theſe were finiſhed, the court returned to the proceedings of the Conſtitutional Society.

Further proceedings at the Crown and Anchor were then read, on the 28th of September, and 5th of October, 1792.

Read a letter from the Conſtitutional Whigs and Independents; and the thanks were voted.

Read Joel Barlow's letter to the Convention of France, tranſmitted to the ſociety—it repreſents the defects of the Conſtitution of 1791—The Thanks of the Society for the communication, were voted at the next meeting, on the 12th of October.

Joſeph Johnſon, Bookſeller, ſworn.

Did you publiſh this pamphlet? I have publiſhed many. Do you know by the title, this to have been one of the Pamphlets you publiſhed? I believe it may. Who paid for the publication? The ſale paid the charges. Do yo believe Joel Barlow to be the author? I do not know. Do you believe other authors might aſſiſt? I really cannot ſay. You did not publiſh Paine's Rights of Man? No; I did not. Did you ſell any? I believe I did. Many or few? I would wiſh to obſerve, that when *I* ſold them, the book had not been conſidered as a libel. Do you know how many of them were publiſhed! I do not know. Was the ſale extenſive? I believe it was large.

The

[The Chief Baron deſired the witneſs might not be preſſed upon this ſubject.]

Do you remember any letter from Mr. Paine to Mr. Dundas? Yes, Where copies ſent you by any body? I think they were from the country. Where there many? I do not recollect. Some dozens? there might. Some hundreds? I do not know. Were there 700? I do not know, nor from whom they came.

What quantity might you ſell of Barlow's Letters? 5 or 600.

Lauzen proved the ſeizing Barlow's letter at the houſe of the priſoner. This letter was tranſmitted to the Correſponding Society, together with a copy of the ſame writer's letter to the Convention.

Mr. Johnſon was here aſked. If Mr. Barlow was the author of "Advice to the Privileged Orders?" He publiſhed it for Barlow. Had it a large ſale; About 1, 000.—(Extracts read from it.)

Do you know ſuch book, publiſhed by Thomas Paine (meaning the Addreſs to the Addreſſers)? I believe there was ſuch a book.

Do you know the cheap edition? I beg leave to decline giving any anſwer.

Several interrogatories then enſued.

Do

Do you believe that there was a large edition? Do you believe that real, or a *fac ſimile* edition? To all of which the witneſs declined an anſwer.

Do you know by whom this was printed (ſhewing the book). I believe by Mr. Symonds.

Had you any communications on the ſubject? I beg leave to decline the anſwer.

Mr. Garrow.—My Lord, I am not aſking whether the witneſs publiſhed any one edition or not; but whether or not he had any communication, directly or indirectly, with the author on the ſubject.

Mr. Johnſon—I beg leave to decline any anſwer.

Mr. Garrow—Mr. M'Lean, are theſe the letters, referred to in the laſt bill, by Mr. Adams, Secretary to the Conſtitutional Society? They are.

Mr. Garrow emphatically remarked, we ſee and approve the induſtry of Mr. Adams, the Secratary.

On reading the Addreſſes, one mentioned, "That innumerable Societies are formed in Scotland, England, and Ireland, for the purpoſe of Reform."

In the ſame Addreſſes, "the Society has ſent to the Soldiers of Liberty, 1,000 pair of ſhoes," &c.

[After

After reading a body of other evidence.

William Huſkiſſon, of Pall-Mall, who had ſome time reſided in France, as Secretary to Lord Gower, was called upon to ſubſtatiate an Addreſs from a Society in France.

Mr. Huſkiſſon corrected ſeveral errors in the Engliſh tranſlation of the Addreſs—ſuch as "Confedcracy deſtructive of Tyranny," he mended by the more literal tranſlation of "deſtructive of Tyrants."—"The perfidious Court of St. James's, whoſe tyrannical policy"—The witneſs amended by "whoſe infernal policy."

Mr. Garrow—Thomas Wood, is that Mr. Froſt's hand-writing? ſhewing him a manuſcript to identify the ſame. I have no doubt of it.

Mr. Garrow—In order to ſhew, my Lord. the nature of the glorious victory alluded to by Mr. Horne Tooke, &c. in the correſpondence now read, I ſhall aſk ſome few queſtions of the witneſs, who I believe reſided in Paris at that eventful period.

Mr. Garrow—Was you in Paris the 10th of May, 1792?

Mr. Huſkiſſon—I was. I reſided in the houſe of Earl Gower, the Engliſh ambaſſador On the 10th of Auguſt I remained at home—heard firing, and ſaw people running.

Mr.

Mr. Garrow—What had occaſioned the firing, &c.

Mr. Huſkiſſon—The conteſt between the inſurgents and the King's friends. The governor took ſhelter in my lodgings. I went out about nine o'clock—the out-buildings were burnt, and there was an appearance of deſtruction every where.

Mr. William Woodfall depoſed, that the paper ſhewn him was the hand-writing of Mr. H. Tooke, whom he had ſeen write ſeveral times.

Mr. James Thornton, on being ſhewn four manuſcripts, depoſed, that they were the hand-writing of Mr. Horne Tooke.

Mr. Thomas affirmed, that the two papers now preſented, were among thoſe ſeized in the houſe of Mr. H. Tooke.

Mr. Huſkiſſon was again called, to mention what he knew of the ſtate of affairs in Paris on the 10th of Auguſt, 1792.

[A letter contained theſe words—"We can now begin the public contributions."]

An extract was then read from the proceedings of the Crown and Anchor, on the 18th of January, 1793, Lord Semple in the chair, when there were preſent, Count Zenobio, Mr. Chapman, Mr. Reider, Mr. J. Williams, Mr. Balmain, and others. It

It was reſolved, "That Citizen St. Andre ſhould be admitted an aſſociated Honorary Member of this Society; and that the ſame ſhall be publiſhed in the news-papers." Ordered.

At another meeting, 25th January, 1793, it was reſolved, "That Citizen Barrere ſhould be admitted an aſſociated Honorary Member of this Society; and that the ſame ſhould be publiſhed in the news-papers."

A Reſolution was alſo made to the following effect: "That the people of this country (meaning Great-Britain) are averſe to a war with France."

In an extract from a letter written by Mr. Horne Tooke to Petion, Mayor of Paris, Mr. Tooke offers the donation of four thouſand livres, to enable the French to defend themſelves againſt all Tyrants, with aſſurances that he would give them every aſſiſtance in his power in the cauſe of Liberty—even againſt his own countrymen!

The French paper called The Moniteur, was then produced, recording theſe facts; containing alſo the congratulatory ſpeeches of St. Andre and Barrere on this ſubject.

Mr. Huſkinſſon, when called upon to ſwear to particular papers firſt produced, declined.

Mr. De Boffe depoſed, that he was a bookſeller in

Gerard-ſtreet, Soho? that he ſold French news-papers; that he believed the papers now ſhown him were the French Moniteurs, as genuinely printed in Paris; that he had dealt extenſively in the news-papers, called the Moniteure; that they had, at the time alluded, been regularly ſent from Paris to Calais; thence to Meſſrs. Minet and Fector, Dover; and that all thoſe which he had received, had been conſtantly examined by the cuſtom-houſe officers! [The emphaſis with which Mr. De Boffe delivered himſelf in the concluding part of his depoſition, produced a loud laugh.]

A ſhort altercation then enſued between the Attorney General and Mr. Erſkine, reſpecting the evidence now produced, the latter thinking the Moniteur an indifferent teſtimony at this criſis.

A letter was read, which the Conſtitutional Society tranſmitted by Mr. Rowan to Simon Butler and Oliver Bond, to congratulate them on the reſiſtance they made to the Ariſtocracy of Ireland.

At a meeting of the 12th of April, 1793, Mr. Froſt read a letter, which he was directed to prepare, in anſwer to one from the United Societies of Norwich, which was given in evidence.

Previous to this, Mr. Gibbs acquainted the Court, that, being indiſpoſed, he found himſelf unable to attend any longer; and as it was then eleven o'clock, he hoped the court would conſent to adjourn the proceedings.

The

The Preſident ſaid, that as they were now in the midſt of the proceedings, he would much rather give him an hour in the morning.

Mr. Garrow obſerved, that though Mr. Gibbs ſhould, through indiſpoſition withdraw, it could then produce no great inconvenience while Mr. Erſkine remained.

Mr. Erſkine declared, that he would ſtay with all his heart, and ſuffer Mr. Gibbs to retire; but he wiſhed exceedingly that the Court would conſent to adjourn then, as he wanted ſome time to turn the evidence already given in his mind.

The Preſident replied, that he laſt night expreſſed his inclination to give every indulgence in his power to the Priſoner and his Counſel, but he did not think an adjournment now abſolutely neceſſary, as no inconvenience could ariſe from Mr. Gibbs withdrawing.

Mr. Erſkine ſaid, that as the evidence adduced was new to him, and he had occaſion to deliberate upon it, the Counſel for the other ſide had great advantage over him.

The Lord Preſident ſaid, when he came to make his defence, the court would allow for any indulgence he may require. But as to the fatigue, the Court alſo had its ſhare of it. The proceedings where then continued.

A reſolution of the Conſtitutional Society of October 28, was read, to ſend Delegates to the Convention at Edinburgh, and their choice of Mr. Yorke and Mr. Sinclair to that office, together with the original inſtructions.

There were two minutes of theſe inſtructions; the firſt, that the Delegates ſhould aſſiſt in forwarding any petition to the Houſe of Commons, to enquire into the ſtate of the ſaid Houſe, and require a Reform of Parliament. It was afterwards altered to inſtructions, that they ſhould aſſiſt generally in any conſtitutional mode of procuring a reform. That they alſo demand annual parliaments, general ſuffrage, and the right of the people to frequent reforms, &c. &c.

Mr. Adams, their Secretary proved theſe inſtructions.

It turned out, that they allowed the Delegates ſeven guineas for travelling, and three guineas a week during their continuance in that office.

Reſolutions of the 17th January, 1794, which were mentioned in the Attorney General's ſpeech of yeſterday, were read: "That law ceaſes to be an object of obedience as ſoon as it becomes an inſtrument of oppreſſion." &c.

In a ſitting of the 24th of January, they reſolved that the excellent Addreſs of the London Correſponding Society ſhall be inſerted in their books, and the King's Speech

Speech to his Parliament ſhould be printed under it, and that 40,000 copies of them ſhould be printed on one ſheet of paper.

On the 11th of April, in conference with ſome Members of the London Correſponding Society, it was reſolved, that it was neceſſary to hold a Congreſs of Delegates from the People for forwarding which they paſſed ſome regulations.

He then went on to read their ſubſequent proceedings, their conſolatory addreſs to Skirving, Muir, and Palmer, and the very eloquent anſwers returned by thoſe gentlemen.

The laſt paper read was their Anniverſary Meeting at the Crown and Anchor, on the 2d of May, John Wharton, Eſq. M. P. in the chair.

Amongſt other things were mentioned, that they played Ca Ira, the Marſellois and other patriotic muſic, and drank ſeveral patriotic toaſts.

When the firſt of this account was read, they were proceeding alſo to read the ſongs, which Mr. Garrow ſaid he would not trouble the Court with.

Mr. Erſkine thought, that after the fatigues of the day, it was but fair that they ſhould have a ſong.

Mr. Garrow ſaid, he had no objection—it was not from any reluctance that he propoſed omitting them, but

but to ſave the time of the court. The ſong, however, was not ſung.

Among the toaſts were,

"The Soldiers fighting for Liberty."

"A good Conſtitution."

"Tom Paine."

"John Froſt." &c. &c.

The proceedings were read in the detail, but for the particulars we refer our readers to the Reports of the Secret Committee of the Houſe of Commons.

Here the written evidence being concluded, the Lord Preſident, in order to make an arrangement for the hour of meeting next day, propoſed to give Mr. Erſkine an hour to prepare himſelf; telling the Jury, at the ſame time, that he was ſorry for the fatigues they endured, and to be under the neceſſity of conſigning them to the ſame ſituation they were in laſt night, as it appeared impoſſible to bring the trial to as ſpeedy a concluſion as he deſired.

One of the Jurors then addreſſed him, and acknowledging how ſenſible he and his colleagues were of their Lordſhips' goodneſs, repreſented, that if they were expoſed to the ſame ſeverity this night, as they were the preceding, there would be ſome of them in a condition which would diſable them from attending to-morrow.

He

He was himſelf a ſtrong hearty man, but not prepared to undergo a repetition of laſt nights rigor. They had been now forty-two hours without taking off their cloaths, and during the night had neither fire nor candle-light, obliged to ſtretch in their cloaths upon hard and damp mattreſſes; in point of heat they had better remain in their box, no perſon was permitted to attend, nor even to ſpeak to them, ſo that they muſt appear perfectly ſqualid; even a razor, he declared, he could not obtain, if he wiſhed to cut his throat with it.

Mr. Erſkine here thought it right to make ſome obſervations. It was evident that there were no accommodations in that place by any means fit for the reception of the Jury. Standing there as the repreſentative of the unfortunate priſoner at the bar, he was willing to expreſs every readineſs to agree, if the Court ſhould think fit, that the Gentlemen ſhould return to their own houſes, pledging their honour to what they may be relied upon to do, without giving ſuch a pledge—namely, not to converſe, or ſuffer even to come within their reach, any perſon whatever that had the leaſt concern with either party in this proſecution.

There was another circumſtance alſo which induced him to deſire that they may be allowed to refreſh themſelves, which was the deep attention which it would be neceſſary for them to pay him, during the conſiderable length of time for which he ſhould have occaſion to addreſs them. In order to render this addreſs ſerviceable to his client, honourable to himſelf, and ſatisfactory to the Court and the Jury, he muſt claim all the attention

which

which they could poſſibly beſtow; and as ſound attention depended upon the firmneſs of the mind, and that the mind took its tone from the health and vigour of the body, a ſtate of laſſitude was not that which they required upon ſuch an occaſion. The return of the Gentlemen, therefore, to their own houſes, and their repoſe, was more deſired than objected to on the part of the defence.

Mr. Garrow thought himſelf under the neceſſity of removing any impreſſion which Mr. Erſkine now, for the ſecond time, might happen to make upon the minds of the Jury, as if the Counſel for the Crown had not the ſame reliance on the honour and probity of the Jury, as was expreſſed on the other ſide. He declared, however, that Mr. Erſkine, or any other perſon, could not go a ſtep beyond them in the moſt implicit confidence in the Jury, or in any wiſh to accommodate them however irregular it may be, if it could be done with due obſervance of the law.

The labours of yeſterday, however, could not greatly exhauſt Mr. Erſkine, though the uncommon exertions of the Attorney General had ſo fatigued him, that he was prevailed on to retire ſome time ſince. But even in the abſence of the leader in this proſecution, he would venture to ſay, that provided the court thought that conformable to law, they could indulge the Gentlemen of the Jury in the manner propoſed, it ſhould meet with no oppoſition on the part of the Crown.

Mr. Erſkine was defending himſelf from any attempt to

to insinuate any thing to the Jury against the disposition of the gentlemen on the other side, when he was interrupted by Mr. Garrow, who said he did not accuse him of it.

The Lord President said, that by these observations they only distressed the Court, by obliging them to repeat their refusal of an indulgence which they were desirous to grant, but found upon reflection that it was not in their power.

The Spokesman of the Jury again pressed very hard to be suffered to go home, as the consequence of a further detention, in so severe a situation, would lay some of them up to-morrow, not to speak of the desire they may have of experiencing once more the comforts of a clean shirt.

The Lord President asked if there was any house in the neighbourhood where they may all find beds, and be guarded by some of the bailiffs of the Court.

Mr. Erskine, and some of the Jury mentioned the London Coffee-house

Mr. Garrow hoped it would not be any prevention to their sleeping there, that the persons attending in behalf of the prosecution were stationed in that Coffee-house; but he believed they occupied it so fully, that beds could not be had in it.

Mr. Erskine then mentioned the York Hotel, in

Bridge-ſtreet, and a meſſenger was ſent to know if they could be accommodated there.

The ſpokeſman propoſed a way to remedy all difficulties, which was—to let them go to their own houſes; but to no purpoſe.

The Court then reſumed the buſineſs of the arrangment for to morrow, and in order to give Mr. Erſkine time to conſider of his addreſs to meet the Jury, propoſed again that they ſhould meet an hour later.

Mr. Erſkine repreſented that this was a very anamalous caſe; that he had all the buſineſs to claſs chronologically, which was the way he intended to take it, though the Counſel for the Crown took a different method; and ſome time would be conſumed even in the mechanical part of this operation, He reminded them of the length of time expended by the Attorney General in the opening; and the Defence would be undoubtedly no leſs difficult and important. He ſaid, the Court would ſave much time by enabling him to proceed in the order he intended to do.

A pauſe then enſued; during which Mr. Erſkine propoſed, that the Jury ſhould be taken to the Hummums, where he was informed they might all go to bed in a moment.

The Lord Preſident ſaid, certainly the Priſoner and his Counſel were entitled to every neceſſary indulgence, and if the trial was likely to terminate to-morrow, the Court

Court would allow him two hours in the morning to prepare himſelf.

Mr. Erſkine ſaid there was not the moſt diſtant chance of its being an end to-morrow.

The Preſident agreed that they ſhould go, attended by three bailiffs.

The ſpokeſman ſaid they were better known in the city, and doubted whether they would be taken in at the Hummums, if the bailiffs were with them.

To remove this objection, Sheriff Crowder offered to accompany them to the houſe himſelf, where they were directed to go in three coaches, four in each coach.

One of ahe Jurors borrowed of a Gentleman in the Court, a ſervant to attend them, whom the Preſident ordered to be ſworn in; and ſaid, that if a RAZOR crept in amongſt them, it would be no mortal offence.

It was agreed upon, that the Court ſhould meet at eleven o'clock to morrow (this day); and at a quarter after one it adjourned.

THIRD DAY.

Thurſday, Oct. 30, 1794.

THE Court met at eleven o'clock, and Mr. Hardy being placed at the bar, the Counſel for the Crown produced two papers which had been found in his poſſeſſion.

The firſt paper related to a meeting of the different diviſions of the London Correſponding Society, held on the 30th of April, 1792, for the purpoſe of appointing a ſtanding Committee of Delegates, to draw up the *formula* of a conſtitutional code of laws for the government of the Society.

Of this Committee it appeared that Mr. Margarot, Mr. Vaughan, Mr. Richter, Mr. Martin, Mr. Baxter, &c. were appointed members.

The other paper was of little conſequence.

Lauzun proved a paper found in Hardy's Cuſtody. This was a report from the Committee of Conſtitution; in which were ſtated the ſentiments of the committee with reſpect to the ſtate of the Repreſentation of the People, with ſeveral grievances detailed, which appeared

ed to them to take their riſe from unequal Repreſentation, and the want of Annual Parliaments. The doctrine of the equality of mankind was defended; a declaration made that no majority, however large, ought to deprive the minority of any part of their rights, and that if ſuch ſhould ever be the caſe, the minority had then a perfect right to reſiſt. Magiſtrates were declared to be reſponſible for their conduct.

The defects in our Repreſentation were aſſerted to be the only cauſe of a great variety of grievances, under which, they ſaid, they laboured, which deprived us of the benefit of good government.

Among thoſe grievances were ſtated to be the Corn Act, the Game and Exciſe Laws, the Stamp Duties, the encouragement of Spies and Informers, the Mutiny Act, and the Impreſs Service.

Mr. Bower produced two copies of the Addreſs to the Addreſſers, by T. Paine, and called Mrs. Rickman, the wife of T. Clio Rickman, bookſeller, who depoſed, that theſe pamphlets were printed for her huſband. She knew T. Paine, who lodged at Richman's houſe, from June to September, 1792. She had ſeen the proof ſheets of the pamphlets, which were brought to her houſe, while Paine was there. Paine himſelf was to have the profit of the large edition, and Rickman of the ſmaller.

Mr. Erſkine in a croſs examination, aſked her, if ſhe could take upon herſelf to ſwear, that theſe two pamphlets

pamphlets were part of thoſe that were ſold at her houſe? She anſwered, ſhe believed they were. Mr. Erſkine preſſed her very cloſe upon the nature of her knowledge of thoſe pamphlets—he queſtioned her if there were any thing in the type, the paper, or the contents, by which ſhe would take upon herſelf to ſwear, theſe were not printed by ſome other perſon, and might not contain other matter than what appeared in the original Addreſs to the Addreſſers; and if ſhe had ever read the book through? to which queſtion no ſatisfactory anſwer could be obtained from her.

William Camage was ſworn.

I am a member of the Society for Conſtitutional Information at Sheffield. I acted as ſecretary about ſix months. In May laſt my office ceaſed, In that ſituation, I uſed to ſign letters of correſpodence and reſolutions. The profeſſed object of the Society, when I became a member, was, and I believe ſtill is, a Parliamentary Reform. That was the avowed object during my ſecretaryſhip. I continued a member until I was taken up, and I never diſcovered any variation as to principle. The ſociety, I recollect, choſe Mr. Brown as their Delegate to the Scotch Convention about a year ago. I was ſent to Edinburgh by the Society, with a ſupply of money. I took ten pounds from Sheffield, and as much from Leeds, which I gave him. The expences of my journey were defrayed by the ſociety; I received the money from Gales, the printer, who was a member, and who I underſtand has ſince abſconded. I recollect Mr. Yorke becoming a member of

of our ſociety. Our object was, as I before ſtated, and I never heard him propoſe the effectuating of it by arms in public. When the ſociety was threatened to be diſperſed by the oppoſite party, the people thought they had a right to be provided with arms to protect their peaceful meeting in their own defence.

Mr. Yorke approved of that reſolution, and likewiſe of the blade of a pike ſhewn him by one Hill, the maker. About three dozen were made, and ſhafts fitted into them. I heard Mr. Yorke's ſpeech on the Caſtle Hill; he ſaid nothing, that I recollect, about arming againſt the government. He did urge the utility of petitioning Parliament, and a reſolution to that effect was agreed upon. An Addreſs to the Nation was propoſed, which was approved of. Mr. Yorke was conducted home in triumph. He was drawn in a carriage by the people. I never heard him ſpeak of a convention, unleſs it was in reprobation of the Scotch Convention, which he conſidered as premature. The ſocieties, he ſaid, ought to have conſulted the People, and collected their ſentiments, before they preſumed to meet in Convention.

The two letters found at Mr. Hardy's, were ſhewn to the Priſoner, which he identified. To prevent ſuſpicion and detection at the Poſt-office, the Secretaries to whom they were addreſſed, were directed to tranſmit all the communications to the Society, through the medium of one Moody, a carpenter, at Sheffield. The witneſs was then deſired to deſcribe the pikes that he had ſeen in the poſſeſſion of ſeveral members of the Seciety

ciety. Moody, I remember, putting handles into three dozen pike heads. The ſhaft was made of fir, about ſeven feet in length, and the head fluted like a bayonet, ſharp at the point, and, including the ſocket, might be ten inches long. I have heard of ſuch a thing as a NIGHT CAT; and I ſaw the model of one. It was for annoying cavalry, by ſcattering them on the roads.

Croſs-examined by Mr. Erſkine.

The object of our aſſociation was to obtain a more equal Repreſentation of the People in the Houſe of Commons. We never had any idea of deſtroying the King, or the Houſe of Lords We were incapable of ſuch an atrocious act. By ſaying a reſolution paſſed for not petitioning Parliament, applied to the time as being improper. We had no intention of employing force, in order to effectuate our purpoſe; and if ſuch a propoſition had been made, I ſhould have thought it my bounden duty to ſecede from ſuch a dangerous conſpiracy. Our ſober meeting began to be threatened in April laſt. I never underſtood that the Convention I had heard mentioned, had for its object the deſtruction of all conſtituted authorities, and to ſuperſede the functions of the Legiſlature. Its object was merely to conſult and deviſe the moſt legal conſtitutional, and efficacious mode of obtaining a reform in the Repreſentative Body.

We confided in an acceſſion of numbers, which we thought would give weight to our petitions and thereby accelerate our object. By the Bill of Rights, we con-

concluded that we had a right to arm in our own defence, and the pike was the cheapeſt inſtrument. As to the the NIGHT CAT, (of which I only ſaw the model, and I blieve none were made at Sheffield), a friend of mine told me he had ſeen plenty of them about twenty years ago at Newcaſtle.

Our reſolution to arm was not in oppoſition to the power of the ſtate, but againſt the enemies of Reform, who threatened to attack us if we did not diſperſe. It was merely to defend ourſelves, the peace of our city, and the conſtitution of our country. We never entertained an idea of employing thoſe arms againſt king or parliament; and God forbid I ſhould live to ſee the day, when our Sovereign ſhould be hurled from his Throne, and the nation involved in anarchy and confuſion.

Re-examined by Mr. Attorney General.

—— Broomhead, late Secretary to the Conſtitutional Society at Sheffield, was the next witneſs examined. He had acted in that capacity for five months, previous to his having been taken in cuſtody. He conſidered that Society as acting in concert, with, and making a part of the Society for Conſtitutional Information in London. He admitted, that they had delegated a member to the Britiſh Convention in Scotland. He knew Mr. Henry Yorke. That gentleman very often made violent harangues in their meetings, but the ſociety never concurred in, or adopted his ſentiments. He admitted, that pikes had been made in Sheffield,

but they were merely for ſelf-defence, under the authority, as he conceived, of the Bill of Rights.

Mr. Yorke's Speech on the 7th of April, 1794, and ſome other papers were then read in evidence.

Mr. Broomhead was croſs-examined by Mr. Gibbs.

He ſaid, that the idea of taking up arms was firſt occaſioned by a hand-bill, publiſhed by the oppoſite party, urging the neceſſity of arming themſelves againſt all external and internal enemies. It was the common language of the oppoſers of a Parliamentary Reform, "That no good could be done until they had cauſed a riot!" The ſociety did not propoſe to uſe thoſe arms againſt any exiſting power, but were to hold them in readineſs, in caſe they ſhould be illegally attacked, and to defend themſelves againſt a force employed without authority.

Being aſked whether it was in the contemplation of any member to attack the King or Houſe of Lords, or to overturn the Conſtitution, he anſwered, that the man who could have ſuch objects in view, ought to be ſent to Bedlam.—Did you individually entertain ſuch an object? Yes, he replied, as much as I did that of flying to the ſun! The Counſel deſired that he would explain himſelf in plainer terms. He ſtated, that his object, and that of the ſociety, was to enquire into exiſting grievances, and to promote a Parliamentary Reform. He ſhould not have continued a member of the ſociety, if he thought any member entertained ſuch purpoſes as had

had been attributed to them. He abhorred ſuch an idea Their purpoſe was to bring about a Reform in the Commons, without any reference to the King or Lords. They hoped, from a reformed Houſe of Commons, that it would do away the obvious grievances, and make a due enquiry into the expenditure of the country. Theſe ends, he never doubted, were to be attained peaceably, and without commotion. He could not anſwer for what was to be done by a Convention.

Being called upon to explain this laſt anſwer, he ſaid, that the Members delegated were to be left to their own judgment, to ſhape their means to their end, and to adopt the mode which to them appeared moſt adviſeable of bringing about, in a peaceable manner, a Reform in Parliament.

Of a National Repreſentation, he never had any other idea than a Repreſentation of the People in the Houſe of Commons.

Mr. Garrow reſumed the examination of the witneſs.

He aſked, Whether his Society had not at one time correſponded with the Friends of the People in London? the witneſs replied in the affirmative. He did not know, of his own knowledge, that the members in Sheffield had diſclaimed a connection with that Society, as unſuited to their purpoſes. He believed, however, that a letter to that effect had been written by—— Aſhton who ſometime officiated as Secretary. Did he not know that it was the avowed and ſingle object of

the Friends of the People to bring abont a Parliamentary Reform by conſtitutional means? He knew that this was their declared object? but he alſo knew, that there were many people in the country who did not believe them.

[*The quaint anſwers of this witneſs frequently excited a ſmile from the Court.* Lord Lauderdale, Mr. Grey, *and* Mr. Tierney, *who were in the Bench, joined heartily in the laugh occaſioned by this reply.*]

On the publication of the hand-bill from the oppoſite party, he admitted that the Society had not made application to any Magiſtrate. Such application would in his opinion, have been fruitleſs. They contented themſelves with adopting the language of their opponents, and reſolving, "that it was neceſſary to arm againſt the external and internal enemies of the conſtitution."

The reſolution againſt the landing of the Heſſians, was made before the publication of the hand-bill alluded to. He knew of no communication of their purpoſe of arming, or of models of the weapons being ſent to any other Society. He was ignorant of a letter to that effect, having been ſent by a Mr. Davidſon, a member of their Society. His firſt information on this ſubject was obtained in his examination before the Privy Council.

The Reſolutions of the London Correſponding Society, dated the 20th of March 1794, was then read. It went

went to approve of the ſerious lecture given on the Faſt Day at Sheffield.

The Reſolution paſſed on that day at Sheffield were alſo read. They declared, that ſyſtem of war was only a ſyſtem of famine and blood; and that faſting or prayer, for the ſupport of ſuch a ſyſtem, was merely the trick of Court ſycophants, and was, in fact, a ſolemn proſtitution of religion.

Henry Alexander, a linen draper, as he was deſcribed in Fleet-market, was next ſworn. He became a member of the London Correſponding Society in the latter end of the year 1793. He was preſent at a meeting on the 5th of November 1793, when Mr. Yorke came to take his leave of that Society. There were then preſent between 60 and 100 members. Mr. Yorke ſaid he was going to Belgium.

He ſaid that he was a member of the French Convention (this is not true in fact) that he was going to put himſelf at the head of the French army, and expected ſhortly to lead them to London; that he hoped the Society would be ready to join them, and would not ſhrink from what they pretended to be. That he hoped to ſee Mr. Pitt's head, with thoſe of the King, and the other miniſters, very ſhortly on Temple-bar; that the Sans Culottes were brave fellows, and that the King and Queen of France, then in confinement, had only met with their deſerts; that there were ſeveral brave fellows at Sheffield, but that the Society ſhould remember

remember, that no good could be done without bloodſhed.

Being aſked whether Mr. Yorke had ſaid any thing about pikes, &c. he replied in the negative A mention of theſe had been made on a former night, but by what member he knew not, on the introduction of a viſiting member from Sheffield. Some perſons ſaid, that they ſhould be provided, in like manner; and that as to the expence, it was only living on bread and cheeſe one day.

He was aſked, How the ſpeech of Mr. Yorke was received by the Society? he replied, That thoſe who were unanimous, got up, and ſhook him by the hand, and wiſhed him a good journey. He did not continue a member of the Society. He went immediately to Mr. Dundas, and the Lord Mayor (Sir James Sanderſon) to inform them of what had paſſed.

This witneſs was croſs examined by Mr. Erſkine.

He did not go, he ſaid, to the Society, with the purpoſe of becoming a member. He became one without knowing their principles or purpoſes. He was taken there by a friend, a Mr. Whitehorne. They were aſked, by a Mr. Smith, and were entered as members. Being preſſed with reſpect to this inconſiſtency, in pledging himſelf to a Sociey, of whoſe purpoſe he was ignorant, he heſitated a long time. He ſaid he never had any wiſh for a Parliamentary Reform, He went

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the firſt time through curioſity, and every ſubſequent time as a ſpy. He would not acknowledge that he was ſent by any perſon. He was by profeſſion a journeyman linen-draper. He kept no ſhop. He had ſerved different employers, but was not now in a ſituation. "You are," ſaid Mr. Erſkine, "in a very ſingular ſituation indeed!"

Being preſſed with reſpect to his occupation for the laſt five years, he faultered and prevaricated greatly in his account. He had lived with Mr. Smith in Cheapſide, Mr. Faulder, in Holborn, and laſtly with a Mr. Chillaby, now a taylor in Moorfields.

He had made an engagement with Mr. Manly, in Holborn, at a ſalary of 25l per annum; but had loſt it by being ſubpœnaed in this buſineſs. He did not know that an half hour attendance would be ſufficient. He had never aſked his employer leave to attend. On the contrary he told him, that he was going into the country.

He thought he was going to Sheffield, to give evidence againſt Mr. Yorke. This was an idea which ſprung merely from his own imagination. He afterwards admitted that it was from an intimation given by Mr. White, Solicitor to the Treaſury. He ſaid he had left his place in Cheapſide on account of "words" with his maſter, but the cauſe of their quarrel he could not remember. Mr. Erſkine obſerved, it was ſtrange that a man who could remember an whole ſpeech, could not recollect a circumſtance reſpecting himſelf.

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The Attorney General here interpoſed. He ſaid, that the witneſs had profeſſed to recollect but a few detached paſſages from Mr. Yorke's ſpeech, and if we heard the honourable and learned Gentlemen correctly, he added, that much of what the witneſs ſtated was "not true."

The witneſs on his farther examination, could not recollect any one particular of what had paſſed on the other ſix nights that he had viſited the Society, except that Mr. Yorke came in one night and ſtated that he had been on a viſit to Mr. Froſt in Newgate, who was to be pilloried the next day.

Thomas Whitethorne, George Wadeſon and Robert Moody were next examined. But as their evidence was chiefly reſpecting the proceedings at Sheffield, and the pikes, of which ſo much has before been ſtated, it is unneceſſary here to tire our readers with a recapitulation.

[At a quarter before ſeven the court adjourned, for an hour, in order to partake of ſome refreſhment.]

The next witneſs examined was John Edwards, who had been for ſome time in cuſtody.

He had been a member, he ſaid, of the London Correſponding Society, and belonged to the diviſion, No. 22.

In April laſt, he was informed by the priſoner, that ſome

ſome perſon unknown to the witneſs, and who reſided at Sheffield, had offered to make the blades of ſome pikes for any perſon who wanted them; the priſoner, at the ſame time, produced a letter he had received from this unknown perſon upon the ſubject, and read part of it to the witneſs, adding, that he underſtood a place had been diſcovered, or appointed, ſomewhere in Sheffield to forge the blades for pikes, and that thoſe perſons who were deſirous of being furniſhed with thoſe inſtruments might procure them by an application to that place, eſpecially thoſe who were reſident at Sheffield, and belonged to the ſociety eſtabliſhed in that town.

Some time after this converſation with the Priſoner, the witneſs heard that a meeting of one of the diviſions of the London Correſponding Societies was appointed to be held in Green-harbour Court.

The object of this meeting he learnt was a conſultation among ſuch of the members who were deſirous of having the blades of pikes made for them.

The meeting being accordingly held, it was propoſed and agreed, that thoſe deſirous of being furniſhed with theſe inſtruments ſhould pay down one ſhilling each; a plan was alſo afterwards appointed for ſeveral Members of the London Correſponding Society to learn the exerciſe of the muſket; he believed the room was ſomewhere in the Borough, but he did not learn whereabouts; he knew a perſon by the name of Franklow, he

was a member of the London Correſponding Society; but did not belong to the ſame diviſion as the witneſs did; he heard in a converſation at the Society, that there was an aſſociation at Franklow's, at Lambeth, but he did not know for what purpoſe they met; nor he did not know in what dreſs they all met at Franklow's. But he had ſeen ſome of them at the anniverſay dinner in a ſort of regimental dreſs.

A diviſion of the ſociety, afterwards met at the Three Tuns, Snow-hill, to conſult whether they ſhould form an aſſociation ſimilar to that of Franklow's; but nothing was agreed upon; there were ſixteen members preſent there, belonging to different diviſions: he had heard of a Secret Committee that had been formed, but it was ſoon diſſolved.

Of this Secret Committe, Mr. Martin, Mr. Thelwall, Mr. Baxter, and others, were members.

This Committee was afterwards revived. The province of this Committee was to receive letters, and hold a correſpondence; the General Committee of Delegates met at a Houſe in Compton-ſtreet, from whence they adjourned to Mr. Thelwall's houſe in Beaufort-buildings; he remembered a Committee of Correſpondence with the Conſtitutional Society being appointed; he alſo remembered a debate among the members of the London Correſponding Society, reſpecting the trial of Mr. Eaton, when it was propoſed to preſent a medal to the twelve Jurymen who had acquitted him; he was likewiſe

likewiſe preſent at the meeting at Chalk Farm, and had a ticket of admiſſion from the General Committee for that purpoſe.

At Chalk Farm about two thouſand perſons were aſſembled; they met in a trap-ball ground there; he ſaw there Mr. Thelwall, Mr. Moore, Mr. Richter, and many other members of the London Correſponding Society; he did not know whether the priſoner was there or not, or what paſſed at this meeting, being in the large room with ſome ladies the major part of the time; he was afterwards preſent at a meeting at Robins's Coffee-houſe, Shire-lane, Temple-bar—here a paper was handed to the witneſs, and he was aſked if it was delived to him at that houſe by any perſon, and whom; he ſaid he did not receive one of the ſame ſize, but he did of the ſame tenor and contents, though of a different date.

The paper was read. It ſtated that, a new farce would be performed, entitled, "The Guillotine, or George's Head in a Baſket!" It then ludicrouſly mentioned the Dramatis Perſonæ. It was dated the 1ſt of April, 1794.

Mr. Erſkine oppoſed the production of this paper in evidence, it not being the identical paper received by the witneſs.

This objection was over-ruled by the Court.

After the meeting was over at Chalk Farm, the witneſs went to Compton-ſtreet, where Mr. Thelwall, and other members of the London Correſponding Society were aſſembled at ſupper; the witneſs did not recollect any converſation at the Globe Tavern, about the Heſſian troops, nor ſeeing any paper there upon that ſubject; he was not preſent at Robins's Coffee-houſe, when Mr. Yorke made his ſpeech; he knew Mr. Hodſon, but never received any printed paper from him; he had been at Thelwall's lectures, but never heard that any perſon was forbid, or prevented from taking notes of the lectures; he knew Mr. Goſling and Mr. Hiller.

A ſhort time before the priſoner was apprehended, Hiller and Baxter called upon the witneſs, at his own aparment, to ſpeak to him about ſome pikes; the witneſs afterwards deſtroyed his pike for fear it ſhould be found upon him. Hiller had a pike, but he did not know where it was conſtructed.

Upon his croſs examination, he ſaid, he made the pike to protect himſelf in caſe of any illegal diſperſion of the London Correſponding Society; he had not the leaſt intention to uſe the pike he had made againſt the King, or the Government of this country; and he verily believed, that not one of the members who had poſſeſſion of, or ordered pikes, intended to uſe them in rebellion againſt the King, or for any unlawful purpoſe whatever, but merely in their lawful defence.

In

In this part of the evidence, a great deal of ſparring took place between Mr. Erſkine and the Attorney General, which was ended by the candid and judicious remarks of the Lord Preſident.

The witneſs ſaid, that the priſoner always deported himſelf in a very peaceable and orderly manner, ſeldom ſpeaking of any of the diviſions, and when he did, he never uſed any improper expreſſion; he never heard the priſoner give any orders for, or even talk about pikes, nor did he believe that he ever ſaw the paper that had been produced in evidences or had the leaſt knowledge of it; he was convinced that the Priſoner had never mediated any act of hoſtility againſt the King or the Government.

Samuel Williams ſaid he had furniſhed an aſſociation at Lambeth with eleven muſkets. From the regularions of that body, it appeared they had aſſociated to ſtep forth in caſe of foreign invaſion and civil commotion, that they wore a uniform, learned the manuel exerciſe, and aſſumed the title of the Royal Lambeth Aſſociation. They profeſſed to have a reform in Parliament in view, but if they did not obtain it by petitioning, from ſome converſation he heard, they would reſort to force.

Mr. Gibbs objected to the examination on this point, as the members of the Aſſociation did not appear to be members of the Conſtitutional Society.

After

After ſome further unintereſting and deſultory evidence, given by one Sanders, a publican, and Edward Goſling, a broker, and an aſſiſtant to Juſtice Wickham, of Worſhip-ſtreet, the Court adjourned at half paſt one o'clock in the morning of Friday, until eight the ſame morning.

The Jury, accompanied by the proper officers, went to ſleep at the Hummums.

FOURTH

FOURTH DAY.

Friday, Oct. 31.

THE Court met at nine o'clock, and Mr. Hardy being placed at the bar.

Mr. Attorney General produced two papers found at the priſoner's houſe, dated July, 1792, and addreſſed to a Mr. Rouſſel (now in Newgate) as a member of the Conſtitutional Society. It would appear, that theſe papers were produced merely to prove that Rouſſel was implicated in the alledged conſpiracy.

John Groves was then called, who depoſed, that he was preſent at a meeting of the Correſponding Society, on the 20th of January, 1794; that he was afterwards deſired, by a particular gentleman, to become a member, which accordingly he did. The name of this gentleman he had no objection to mention, but was told by the Counſel for the proſecution that there was no occaſion. At the meeting where he firſt attended, Martin was in the chair, an addreſs was read, and a great many toaſts given, which he did not now recollect.

Do

Do you remember any part of the converſation in the meeting, at which you were preſent? There was a general talk of Univerſal Suffrage and Annual Parliaments.

After you became a member of the Society, what was publicly profeſſed to be their object? A Reform of Parliament.

What were the means by which they propoſed to attain that object? By enlightening the minds of the lower claſſes, in order that they might arrive at the knowledge of their natural freedom.

What particular means did they take in order to enlighten the People? Chiefly by diſtributing pamphlets ſuited to their capacities.

Do you not recollect the names of ſome of the perſons who were ſo loud in the cauſe of Univerſal Suffrage and Annual Parliaments! I cannot mention their names; it was the general voice of the Society.

Did you never hear any thing ſtarted on the ſubject of arms? I never did.

Were you preſent at any of Thelwall's Lectures? Yes; I was two or three times preſent.

What was the ſubject of theſe Lectures? A general abuſe of adminiſtration.

Did

Did he not touch on the branches of the legiſlature? —How did he ſpeak of the King? In terms of contempt.

Do you recollect any of thoſe terms? He called him a Solomon.

How did he expreſs himſelf of the other branches of the legiſlature? As entirely corrupt.

Did he ſay then they ought to be deſtroyed? No; but he ſaid they ought to be new modelled.

What means did he recommend for that purpoſe? Annual Parliaments and Univerſal Suffrage.

The witneſs then proceeded to ſtate, that he was preſent at the meeting of the Correſponding Society at Chalk Farm, on the 14th of February. Lovatt was in the chair; a letter was read from the Friends of the People, and an Addreſs propoſed; ſome printed papers were delivered to the perſons preſent. He was aſked if he had any of theſe printed papers about him; and, upon anſwering in the affirmative, was required to produce them.—The printed account of the proceedings at Chalk Farm was then read.

How was the letter from the Society of the Friends of the People received? with univerſal ſilence and hiſſing.

Did you go to Chalk Farm in company with any perſon? Yes; with Mr. Thelwall.

Where was the meeting firſt to have taken place? It was propoſed to have taken place at Store-ſtreet.

Why was it afterwards changed? I was told by Mr. Thelwall it was only to be given out that it was to take place at Store-ſtreet, becauſe they were afraid that the magſtrates might interfere? accordingly, at the door of the houſe there was a notice ſtuck up that it was to be held at Chalk Farm.

Who were the principal perſons who ſpoke and acted at the meeting? Lovatt, Thelwall, Richter, and Hodſon.

Do you recollect any thing being ſaid about ſpies? Yes; Thelwall ſaid, that he would permit all ſpies to be preſent at that meeting, for the account they would have to carry home of the numbers of the Correſponding Society, would be no very agreeable news to their employers.

Do you recollect, in any reſolution that paſſed on that occaſion, the phraſe Britiſh Senate being objected to? Yes,

Do you recollect any thing that Hardy ſaid at the meeting? I recollect him only to have uttered three words.

What

What were theſe? While Richter was reading the reſolutions, he ſtopt to make ſome remark of his own, when Hardy ſaid, "Read without comment."

After the meeting was over, where did you adjourn to ſpend your evening? I adjourned along with Thelwall, to the public houſe in Compton-ſtreet, where the diviſions met, and there indeed I heard ſomething that much aſtoniſhed me; for Thelwall, taking up a pot of porter, and cutting off the head, ſaid, "Thus would I have all Kings ſerved," or "Thus I would ſerve all Kings." I cannot exactly recollect which of theſe expreſſions he uſed.

Was there any particular toaſt afterwards given? Yes; Thelwall gave, "The lamp-iron at the end of Parliament-ſtreet;" and called upon another perſon to cover it, who gave—"And at the Treaſury Bench."

Do you know a perſon of the name of Green, or recollect any particular expreſſions which he uſed? Yes; he once ſaid, "That the pretexts of Annual Parliaments a Univerſal Suffrage were only ladders to gain their ends."

Did Green ever ſhew you a knife of a particular conſtruction? At the meeting at Chalk Farm, I was ſitting in a box with about ten, and was rather ſurpriſed at remarking, that five or ſix of them produced out of their pockets ſmall inſtruments correſponding with each

other, Theſe reſemble what the French call *couteau ſecret*; opening with a ſpring, and not apt to fly back. One of the company remarked theſe were bread and cheeſe knives, at which I could obſerve a ſmile upon their countenances. I was told that I might have one at Mr. Green's ſhop, Orange-ſtreet, Leiceſter fields. I went there about a week after; he told me that he had ſold about two or three hundred of theſe knives; and, the parlour door being open, deſired me to ſpeak very low, "For (ſaid he) my wife is a damned Ariſtocrat.

Upon being aſked, whether he recollected any thing farther of the proceedings of the ſociety, he ſaid, that at one meeting, at which he was preſent, an application was made to grant ſome relief to Dr. Hodſon, then confined in Newgate, but was refuſed; and the reaſon aſſigned was, on account of his extreme violence, and he believed it was alſo mentioned, that he was no member of the Correſponding Society. He was preſent at the dinner of the Society for Conſtitutional Information, held at the Crown and Anchor, on the 2d of May laſt. He ſtated, that Hardy brought him a ticket for that dinner; he put his hand into his pocket but was told there was nothing to be paid for it. Previous to the company having aſſembled to dinner, ſome very bad news had arrived from the continent, which ſeemed to diffuſe an air of general ſatisfaction. A copy of a ſong was delivered to every individual of the company; and there was likewiſe a paper laid on each plate, but its contents he did not recollect.

Who was in the chair? Horne Tooke.

The counſel deſired him to recollect himſelf, and that he ſaid he believed the chairman was not Horne Tooke, but Mr. Wharton, Member of Parliament.

Had you any muſic? The moment the company entered the dinner room the air of "Ca Ira" ſtruck up, and continued to be played, during the whole time of dinner, being repeatedly encored. It was followed by the Marſeilles March, and the Carmagnole.

What effect did theſe airs produce upon the company? They called forth a univerſal peal of approbation; the clapping continued ſo loud and ſo long that hands ſmarted and ears ached.

What took place after dinner? Horne Tooke got up, he ſaid, that there were in the room ſome government ſpies, and thoſe he wiſhed in the firſt place to addreſs. To this I particularly attended. He deſired the company to remark, that he was not in a ſtate of inebriation; for having ſomething to ſay, he had taken care to refrain from the indulgence of his glaſs. He then proceeded: he called the Treaſury Bench a ſcoundrel ſink of corruption; and the oppoſition, a ſcoundrel ſink of oppoſition; he ſaid, there was a junction between theſe two parties, for the purpoſe of deſtroying the rights and liberties of the nation. He then, ſpeaking of the hereditary nobility, aſked, Whether that ſkipjack Jenkinſon could be conſidered as one of the hereditary nobility? What

What did he ſay of the Houſe of Lords? If my memory ſerves me right, he paid them much the ſame compliment, which he had already paid the Houſe of Commons.

Chief Juſtice Eyre—"Sir, in giving evidence, do not uſe that language, in talking of the ſame ſort of compliment; confine yourſelf to facts and expreſſions which actually were made uſe of."

How did he expreſs himſelf of the King? He called the King "A poor Man," but whether to amuſe or abuſe I know not.

How was this ſpeech received? With great applauſe.

Was there any ſong ſung upon the occaſion? Yes: there was a ſong to the tune of "God ſave the King," but I do not recollect whether it was ſung by Horne Tooke, or whether he only added a verſe, which he ſaid had been forgotten. This was the ſong which was handed about to each of the company, previous to dinner.

The Attorney General—This was the ſong, a copy of which was read in evidence in the proceedings of yeſterday.

Croſs-examined by Mr. Gibbs.

Mr. Groves, what are you? I have been a conveyancer

ancer for theſe two or three-and-twenty years.

Are you a ſolicitor? I am not a ſolicitor in chancery.

I did not aſk, whether you were a ſolicitor in chancery, but whether you were a ſolicitor. You do not anſwer. Do you not underſtand the meaning of the queſtion? Are you not a ſolicitor at the Old Bailey? I am; I did not indeed at firſt underſtand the meaning of your queſtion.

What! you forget then that you were a ſolicitor at the Old Bailey, and thought it a ſatisfactory anſwer to my queſtion to tell me, that you were not a ſolicitor in chancery? I intended to give a direct anſwer.

I have no doubt that your ignorance was involuntary; it was very natural that you ſhould forget your profeſſion in the court where you practiſe; but when did you firſt attend the meetings of the Correſponding Society? In the month of January.

You were ſent, you ſay, by a gentleman? Yes; I was employed to attend by a gentleman, high in office, for the purpoſe of procuring information. At the ſame time I muſt remark, that I was not deſired by that gentleman to conceal his name.

What is his name? Witneſs (addreſſing the Chief Juſtice

tice). " My Lord, is it a proper queſtion? If it is, I am ready to anſwer it."

Mr. Gibbs—" If it was an improper queſtion, I would not have aſked it."

Chief Juſtice Eyre—" Mr. Gibbs, he has admitted all that is neceſſary for your purpoſe, by ſaying, that he was ſent to theſe meetings to procure information. I conceive that it would not be expedient to anſwer your queſtion, as he has confeſſed that he was employed by a perſon high in office, and to require from him the name of his employer, might lead to a ſort of diſcuſſion which has nothing to do with the preſent trial.

How roſe your connection with your employer? I have the hononr of being perſonaliy known to him for theſe ten years; during which time, I have enjoyed his confidence. That gentleman would not employ me on any thing diſhonourable; he made uſe of me in order to procure neceſſary information; and I have very different ideas of the nature of that engagement from what are generally entertained.

I dare ſay, that the gentleman would employ you on nothing which you conceived to be diſhonourable, as well as that your ideas on the ſubject are very different thoſe which are geeerally entertained. But from the amount of all you have ſaid, I am to underſtand that you

you never were preſent at any of the preſent meetings except in the character of a ſpy? If to be employed to procure neceſſary information deſerves the appellation, I muſt be content to bear it.

Then you confeſs, that as a ſpy——

Chief Juſtice Eyre—"Mr. Gibbs, he has admitted that his object was to diſcloſe information; I muſt object to any name of that ſort being applied to a witneſs."

You went then to pick up information, and carry it to your employer? I did.

You ſay, that there was a large company at the firſt meeting that you attended? So very numerous, that the floor broke down, and we were obliged to remove to another room.

And how happened it, Sir, that you, going there as you did to collect information, in order that you might afterwards be able to bring it forward in evidence againſt individuals, made yourſelf maſter of no particular fact, of no expreſſion which can be made the ground of a direct perſonal charge? Did you conceive it ſufficient, for the purpoſe of individual examination, that you ſhould bring ſuch evidence as that there was a general clamour for univerſal ſuffrage and annual parliaments?

Chief Juſtice Eyre—"Mr. Gibbs, you go beyond the bounds of croſs-examination. You are only to

probe into all facts, and to endeavour to bring forward ſuch as have not come out in the courſe of the examination. You ought not to introduce ſuch a periphraſis as you have juſt now done."

Mr Erſkine—"I do not conceive that my learned friend exceeds the uſual limits of croſs-examination. What he addreſſed to the witneſs may be taken as a queſtion. "How do you, having been employed for the expreſs purpoſe of procuring information, account for being ſo deficient in your knowledge of particular facts?" I have now practiſed theſe ſeventeen years; and I recollect an inſtance, when a learned Judge (Buller), now on the bench, preſided? Mr Garrow, who was then introduced to the bar, at which he now ranks ſo high, put a queſtion to a witneſs, to which I objected. It turned out to be in the courſe of croſs-examination, and the laugh was raiſed againſt me."

Judge Buller—"I confeſs, that a greater latitude has been introduced into croſs-examination, than, perhaps is proper. It has, in ſome degree, been ſanctioned by practice. It is allowable to lead the evidence to the point to which counſel may wiſh to bring him; but certainly not to put words into his mouth which make directly againſt himſelf."

Chief Juſtice Eyre—"In all theſe caſes my judgment is, that it is the buſineſs of counſel to get at the particular. Any remarks on the nature of the evidence ought to be reſerved to their proper place, in the reply."

Mr

Mr. Gibbs—"I am happy to find myſelf ſupported by the authority of my learned friend, with reſpect to the practiſe; though, I confeſs, my Lord, that I feel myſelf conſiderable mortified, to have incurred any remark from you, with reſpect to my mode of conducting the examination.

Chief Juſtice Eyre and the Attorney General took an opportunity to profeſs the higheſt eſteem and reſpect for Mr. Gibbs, in his profeſſional capacity; and the croſs-examination proceeded.

You are then employed in the law? I have not practiſed theſe ſix months.

You do not mean to ſay, that you have declined practice, but that no buſineſs was brought to you? Such has been the caſe.

So indeed I ſuppoſed. How happened it at the meeting at the Globe Tavern, of which you have given an account, you do not recollect any of the expreſſions uſed by particular perſons? When I firſt went there, I was a ſtranger to almoſt every perſon in the company, and could not, therefore, diſcriminate the particular ſpeakers.

You went afterwards, you ſay, to Chalk Farm? Yes.

On that occaſion, you ſeem to have fixed yourſelf on Thelwall; No: he fixed himſelf on me. We met at the

the door of the houſe in Store-ſtreet, where the meeting, which afterwards they thought proper to adjourn to Chalk Farm, was originally propoſed to have been held; and Thelwall ſeeing me there with a view to attend, ſaid, "come along."

Was there not at that meeting a great cry againſt ſpies? Yes.

I ſuppoſe then that you joined in that cry? certainly I did.

Did you ſee any perſon whom you knew? Yes.

What was his name? Walſh.

Was any enquiry made to you reſpecting your knowledge of him? Yes; I was aſked who he was, and I anſwered, I knew him to be a perſon employed by government.

And you told him, that he had come there to procure information? I did.

So you admitted that he was a ſpy? I did.

You conceived him, on that occaſion, to be there in the ſame capacity with yourſelf; for the purpoſe of making diſcoveries? I did.

You ſaid that you knew he was a perſon employed by government, and a ſpy? I was carried acroſs the garden by

by ſome of the members who ſuſpected him, for the purpoſe of telling who he was; beſides, he had the words King and Conſtitution inſcribed on his buttons.

So you admitted a perſon in the ſame ſituation with yourſelf, employed by government, and with the words King and Conſtitution inſcribed on his buttons, to be a ſpy. Was you not afraid, by this declaration, to expoſe your friend to the hazard of being torn to pieces by the perſons, at whoſe expence he came to make diſcoveries? Had I not made the declaration, I might have been myſelf ſuſpected.

Oh! it was only a fetch of cunning, in order to conceal your own character; and I think, you told us before, that Mr. Thelwall had ſaid, he wiſhed all ſpies to be amitted. What might be the number preſent? I ſuppoſe about two or three thouſand, of whom however only about eight or nine hundred belonged to the Conſtitutional Society. The others were drawn there by curioſity.

At that meeting you ſaw ſome knives, of a particular deſcripton, employed by the company in eating bread and cheeſe. Had not you often ſeen ſuch knives before? I certainly had.

Did not you know that they were exceedinly common? I certainly did.

You were afterwards, you ſay, preſent at the Crown and Anchor, on the 2d of May? I was, and was very much

much aſtoniſhed to find, on entering the room, ſo great a number of reſpectable gentlemen aſſembled.

I have no doubt you was. But how did you contrive to get into their company? I have mentioned, that I had been preſented with a ticket for the dinner by Mr Hardy.

You was not certain who was in the chair? I now recollect that it was Mr. Wharton.

Did Mr. Horne Tooke, in the ſpeech which he made on that occaſion, and of which you gave ſome account, ſpeak highly of the antient hereditary nobility? Yes; he paid them every compliment.

Did he not alſo remark, that the antient nobility had loſt their due influence in the country, in conequence of the new nobility (I do not wiſh to make any offenſive alluſion to individuals) introduced by thoſe upon whoſe conduct he had been adverting in the Houſe of Commons? I now recollect he did.

Did he not alſo ſpeak highly of the office of the King in the Conſtitution? I am clear he did, for he lamented the circumſtance of the new nobility, in conjuction with a corrupt Houſe of Commons, continuing, as he expreſſed it, to amuſe that poor man, the King.

Did he make any other complaint then againſt the Conſtitution, except that perſons were introduced into the Houſe of Commons, and by this means into the Houſe of Peers, who reſtrained the due priviledges of

the Crown, and deprived the King of his proper weight in the Conſtitution? I perfectly recollect that he made uſe of thoſe expreſſions.

John Coats, late of the Birmingham Volunteers, ſworn.

That he had been a ſervant or apprentice to P. Franklow, taylor, No. 1, China-row, Lambeth; that in the one pair of ſtairs his maſter and ſeveral others uſed in the evening to be taught the uſe of fire arms: that he never heard of any circumſtance which induced him to believe that thoſe who met there conſpired againſt the King; that ſo far as he underſtood, their principal aim was a reform in Parliament, and that he had ſeen his maſter in his uniform of blue coat and red collar, with white waiſtcoat and breeches.

James Walſh's evidence followed.

He ſtated his having been at the Chalk Farm meeting He heard ſomething mentioned reſpecting a Convention. The reſolutions were read in his preſence. One hundred thouſand copies were ordered to be printed; and, if neceſſary, it was ſaid that the number might be increaſed to 2000,000. He remembered having heard Thelwall ſpeak on the occaſion; but does not recollect any part of his ſpeech. He was convinced, that there was no propoſition, nor one word uttered, relative to arms. There was one man there, from Ireland, which he knew by his brogue. Cannot charge his memory with any further particulars.

Thomas

Thomas Green, of Orange-ſtreet, Leiceſter-fields, was then ſworn.

He declared, that he had dealt in knives and forks ever ſince he had been in buſineſs. Of three dozen of ſpring knives, which he had received from Sheffield, he had ſold fourteen. He had ſometimes diſpoſed of ſingle knives. The Priſoner, Hardy, had purchaſed ſome in packages, which conſiſted of ſix, ſometimes ſeven, in the package. Green ſold one to Billington, and another to Groves; but ſaid, that he had got moſt of thoſe taken by Hardy, on account, returned to him when the Priſoner was apprehended. The witneſs remembered having been one evening at ſupper in Compton-ſtreet, where he cut his food with a knife of this deſcription, which received the approbation of the company.

Mr. Erſkine croſs-examined Green.

The witneſs anſwered, that he had dealt in thoſe knives for ſeveral years.

Did you underſtand that theſe dreadful knives were for the purpoſe of throat-cutting? Never.

Were they of a new or an old conſtruction: Were they conſidered as ſecret knives, and meant for terrible deſigns? They were neither new, nor ſecret. They always lay in my window for common ſale and I dealt in them for more than ſeven years.

I ſuppoſe

I ſuppoſe all cutlers ſell ſuch knives? I never knew any cutler without them.

When Groves wiſhed to purchaſe a knife, did you deſire him to ſpeak in a low tone of voice, becauſe your wife was a damned Ariſtocrat, and might hear what he ſaid from the parlour? I never ſaid my wife was a damned Ariſtocrat; nor did I ever adviſe Groves to ſpeak in a low tone of voice.

Upon your oath, you did not? I ſwear poſitive, I did not call my wife a damned Ariſtocrat.

Attorney-General—No, Mr. Green, I dare ſay you could not be ſo unpolite to your wife.

Mr. Erſkine—Groves has ſworn to it.

Edward Hodſon was next ſworn.

He ſaid, that he was a member of the Correſponding Society about three months. That there was no other object in view than a Parliamentary Reform. That the change which they wiſhed for, was that in the Houſe of Commons; that it was no part of their plan to attack the King, but that they entertained very different objects; that they deſigned no diminution of his power; that they never intended to diſplace or overthrow the Lords; and that the witneſs left the Society when he learnt that Hardy and Adams had been apprehended.

Mr. Gibbs—Had the Society ever any idea of taking upon themſelves the legiſlation of the country? No.

Did you believe, that from their conduct they ever meant to introduce the anarchy of France? Never.

Croſs-examination of Roſs.

The object of this Society was a Reform in the Houſe of Commons, and no further. There was to his knowledge, no intention in the Aſſociation to attack the King's Majeſty. The Convention did not conſider themſelves as the Britiſh Parliment, nor attempt to uſurp the functions of the Majiſtracy. Made no laws to bind the people. Their only object was to gain a Reform by means of a petition. The Convention conſiſted of about two hundred perſons, and yielded to the Magiſtrates when they came againſt them. The Convention conſiſted of all ranks, poor and rich, many of them reputable people, and chiefly of ſober morals.

Arthur M'Neil, of the Water of Leith, was a delegate, in the Edinburgh Convention, and attended their Meetings ſometimes. After the Convention was diſperſed, there was a Committee of Union formed, ſome of them of the Committee of which Watt was a member. There was a Committee of Ways and Means appointed afterwards by Mr. Holt, Mr. Burke, Mr. Richardſon, Mr. Watt, Mr. Downie, and himſelf.

In that Committee, which was held, in the month of April, the original object was to defray the expences of Mr. Skirving.

Watt read a plan, propoſing to ſeize the Lord Juſtice Clerk,

Clerk, and the reſt of the Lords of Council and Seſſions, and the Lord Provoſt of Edinburgh; to kindle a fire in the Exciſe Office of the New Town, and there was to be a party ſtationed at Lochin Brach, and a party in another part of Edinburgh. The fire was to draw the military from the Caſtle. The two parties were to take them in front and rear. Different parties were to ſeize the different banking-houſes in Edinburgh, and commiſſioners were appointed to collect the caſh of the banks. When Watt read this firſt plan, there were preſent Mr. Stock, himſelf, Watt, Downie, and another, being five out of the nine of which the Committee was compoſed. The priſoner objected to any thing that would tend to ſhed the blood of his countrymen, in which Downie agreed with him.

On one of the laſt nights he attended, Watt read another plan, in the preſence of the ſame Committee, in form of a proclamation, prohibiting all farmers or dealers in corn, grain, or hay to remove the ſame from their dwellings, under pain of death; alſo, that no gentlemen ſhonld go above three miles from their reſpective habitations, under pain of death.

On the other ſide of the paper was an addreſs to his Majeſty, ordering him to diſmiſs his preſent Miniſters, and put an end to the preſent war, or abide by the conſequences.

The addreſs was to be ſent to his Majeſty the morning after the attack. This plan, he conceives, was to ſtrengthen the former one.

The witneſs told Watt, thoſe things did not belong to Parliamentary Reform, and he would have nothing to do with him.

Watt called upon him, and aſked him to take a walk to Orrock's whom he had aſked to make ſome pikes, which Orrack ſketched out upon a board or plate. Watt deſired him to be buſy and work, as he had 4,000 to ſend to Perth, beſide what he was to diſtribute about Edinburgh.

He met Stock at the Committee, who ſaid, he was going to London or Briſtol; and that he would wait upon Mr. Hardy, the priſoner. Watt offered him a letter to the priſoner, to form a correſpondence with Mr. Hardy, and him, in a ſafe manner. The Court then at half paſt one adjourned until twelve.

FIFTH DAY.

Saturday, Nov. 1.

THE Court met at twelve o'clock, purſuant to adjournment. and the uſual forms of opening being gone through.

The attorney General then produced two papers, which were found in the poſſeſſion of Thelwall, and in the handwriting of Martin, after Hardy was in cuſtody. They were brought forward to prove, that they exiſted before the apprehenſion of the priſoner. They were the reſolutions of the Chalk Farm Meeting, and were proved

proved by Shaw, the meſſenger, to have been found in Thelwalls houſe ſince the apprehenſion of Mr. Hardy.

William Walker, of the Adelphi, ſwore to the hand-writing of Martin.

Evan Evans ſwore, that he had been confined for debt in the King's Bench priſon about two years; that he was liberated from thence on the 31ſt of July laſt. From Martin having been confined for debt in the ſame priſon, he became acquainted with him, and he there ſaw both the papers produced in Martin's room; it was in the beginning of April that he ſaw them, and before the meeting at Chalk Farm was held. They were not then dated, Martin told him, that he wrote theſe reſolutions for the Chalk Farm Meeting, and read them ſeveral times over in the room while the witneſs was preſent. He ſaid, that he had put plenty of Cayenne in them; and if they would follow his advice, there would be plenty of work before the month was out. His wife ſaw the papers and Mr. Gay, Mr. Tourle, &c. Some other perſons heard the declarations of Martin, reſpecting his having prepared the reſolutions.

Mr. Gibbs croſs-examined this witneſs.

He ſaid, that he was formerly a Grocer; that he had once a difference with Mr. Martin about the room which he occupied in the King's Bench priſon; but that he never had uſed any expreſſions of reſentment againſt Martin on that account.

The

The witneſs remembers Pearce brought ſome of the reſolutions that had been entered into at Chalk Farm, which were not the ſame as thoſe which were found in the poſſeſſion of Martin. Pearce ſaid at the time he brought them to Martin, in the King's Bench priſon, that he had a number, more, but that he had given the greater part of them away among the men at a coach-maker's, in Long Acre; that Hardy had plenty of them; and, if he wanted any more, he would bring them to him.

John Edwards was ſworn, and a hand writing produced to him.

He was aſked, if he had ever ſeen ſuch papers? he ſaid, That he had ſeen one of thoſe bills handed about at the diviſion meeting of the London Correſponding Society, No 11, held at Mr. Scotney's, on Snow-hill.

This bill was put in and read. The following is a copy of it:

"The Ins tell us, we are in danger of an invaſion from the French.

"The Outs tell us, that we are in danger from the Heſſians and Hanoverians.

"In either caſe, we ſhould arm ourſelves. Get arms, and learn how to uſe them."

The Attorney General informed the Court, at one o'clock, that he had cloſed the evidence on the part of the crown.

THE

THE SPEECH OF THOMAS ERSKINE Esq. IN DEFENCE OF THOMAS HARDY.

BEFORE I proceed to the discharge of that duty to which my situation this day calls me, I desire to return my thanks to the Court, for having adjourned their proceedings to an hour which has afforded me an opportunity to take that necessary refreshment which nature demanded, as well as to you, Gentlemen of the Jury, for the very polite manner in which you assented to an adjournment so essential to my accommodation, and to my being at all qualified for the task in which I am now engaged. Before I proceed to the case, as it regards the law and the evidence, I wish to follow the liberal example that has been set by the Attorney General, in his opening speech, in putting aside every thing collateral to the question. But first, both in the name of the prisoner for whom I stand, and for myself, I desire to subscribe to all that eulogium pronounced by the Attorney General on the constitution of this country, as handed down to us by our ancestors, the result of their superior wisdom and virtue, and entitled to the esteem and veneration of all posterity. But having premised this, the genuine expression of feelings, I trust not less sincere than those which dictated the panegyric of the Attorney General, What, I will ask, entitles the constitution to this eulogium? What renders it the object of our love and reverence? I will not now speak of the right which it affords to its subjects, of making their own laws, but of the equal protection afforded to all, and the security provided for the impartial administration of justice. The Attorney General, seemed to lay great stress on the anarchy and confusion of France, on which he descanted at length. Into that subject I will not at present enter; I neither will enquire into the causes by which they were first produced, nor the circumstances from which they have proceeded to such an extent. But what is it that the French have chiefly to deplore? They are at present under the dominion of a barbarous necessity, in consequence of which no man's life, liberty, or property is secure, or at his own disposal for a moment. The

first

firſt inſtant that a charge of inciviſm, federaliſm, or moderantiſm, is brought againſt him, the ſentence of the Revolutionary Tribunal follows—quick as the the thunderbolt purſues the flaſh, and he is doomed to behold his friends and family no more. Such is the comparative ſtate of England and France; and what is the inference we ought to draw with reſpect to the preſent caſe? If the proſecution be indeed intended to avert from this country the horrors of that anarchy under which France at preſent labours; if it be intended to ſecure the continuance of thoſe bleſſings which it enjoys under its admirable conſtitution, let not the priſoner ſuffer from the execution of barbarous laws barbarouſly enforced, or from the well-meaning enthuſiaſm of thoſe, who, ſincerely attached to the conſtitution, are deſirous to enſure its preſervation at any price. For in former inſtances in the hiſtory of this country, where we have to lament the ſacrifice of innocent perſons under legal pretexts, I am apt to think that we ought rather to condemn the miſtaken zeal than the barbarous ferocity of the age. It is neceſſary then that you, Gentlemen of the Jury, ſhould guard againſt this ſource of deluſion and injuſtice; it is neceſſary that in the deciſion which you are called to give, you ſhould ſtand on the ſtrict and unequivocal letter of the law. It would not be enough that the priſoner ſhould appear to you to have been raſh, fooliſh, or even wicked—the laſt of which it will be impoſſible to ſupport by any colour of evidence---for I truſt I ſhall be able to vindicate his conduct, which in the preſent inſtance, is of little conſequence. It muſt be proved to your ſatisfaction, that he has offended againſt that ſtatute under which he is indicted. He holds his life from the law, and by it he demands to be tried. This fair trial I aſk; firſt, from the Court—I aſk it more emphatically from the Jury—but laſtly, and chiefly, I implore it of him in whoſe hands are all the iſſues of life, whoſe juſt and merciful eye expands itſelf over all the tranſactions of mankind, without whom not a ſparrow falleth to the ground, at whoſe command nations riſe and fall, and are regenerated. I implore it of God himſelf, that he will fill your minds with the ſpirit of juſtice and of truth, that you may be able to find your way through the labyrinth of matter laid before you; a labyrinth in which no man's life was ever before involved in the whole hiſtory of Britiſh trial, nor indeed the univerſal annals of human juſtice or injuſtice."

Mr. Erſkine then proceeded to the indictment. The firſt charge of the indictment was, "that the priſoners maliciouſly, traitorouſly, and with force of arms, did amongſt themſelves and other falſe traitors, to the Jurors unknown, conſpire, compaſs, and imagine to excite inſurrection, rebellion and war againſt the King, and to ſubvert the Legiſlature, Rule and Government of the kingdom, and to depoſe

the King from the Royal State, Title, Power and Government of the kingdom, and to put our ſaid Lord the King to death." 'Gentlemen of the Jury,' ſaid Mr. Erſkine, 'you have been extremely good in taking down the evidence; allow me now to requeſt you to attend to the form and ſubſtance of the charge. The whole treaſon lies in the laſt member of the charge, viz.——"And to bring and put our ſaid Lord the King to death." The indictment then goes on to charge the overt acts.——"And to fulfil, perfect, and bring to effect, their moſt evil and wicked treaſon, and treaſonable compaſſing and imaginations aforeſaid, viz.——to bring and put the King to death, they met, conſpired, conſulted and agreed among themſelves and other traitors to the Jurors unknown, to cauſe and procure a Convention and meeting of divers ſubjects to be aſſembled within the kingdom, with intent and in order that the perſons ſo aſſembled, and at ſuch Convention and Meeting ſhould traitorouſly, without and in defiance of the authority, and againſt the will of Parliament, ſubvert and alter, and cauſe to be ſubverted and altered, the Legiſlature, Rule and Government of the Country, and depoſe, and cauſe to be depoſed, our Lord the King, from his Royal State, Title, Power and Government thereof." This is the overt act—, That the priſoner conſpired the death of the King, and that in purſuance of this intention, he did all the acts charged in the indictment, provided arms, and concerted the plan of a Convention.

And here two things occur for conſideration, which are abſolutely neceſſary in order to eſtabliſh the guilt of the Priſoner under this charge. Firſt, it is neceſſary to prove that he actually did the things which are charged in the indictment. Secondly, that he did them with intention, and in purſuance of the object of compaſſing the King's death. Was this Convention, by which he propoſed to put down the King, to ſuperſede the functions of the legiſlature, and uſurp to itſelf all the authority of the State? A man cannot be guilty of the overt act, without firſt conceiving the intention. It is the intention which at the time paſſes through his mind, that alone attaches guilt to the act. And if you are ſatisfied with reſpect to the guilty intention, you are then to conſider whether the overt act is of a nature which amounts to the deſcription of that charged in the indictment. And here I would earneſtly implore the attention of the Court and of the Attorney General, to what the law is.

It is not my intention, on the preſent occaſion, to offer any thing of my own. It is only my wiſh to make you maſters of the authorities. Nor is it neceſſary that I ſhould bring forward my own authority for the purpoſe of defending the priſoner, and anſwering the arguments of my honourable friend the Attorney General—for my ho-

nourable

nourable friend I have often called, and ſtill will continue to call him.

He has not had recourſe to barbarous precedents nor bloody murders committed under pretext of law: he has not brought forward the exceſſes of a rude and ſanguinary age, or the legal ſophiſtry of corrupt and profligate Judges—He has reſted on grave and venerable authorities, though miſtaken in my opinion with reſpect to the deductions which he has drawn from them. That miſtake, I aſcribe neither to the defect of his underſtanding or his heart; I have too high an eſteem for the enlargement of the one, and the integity of the other.

On thoſe very authorities which he has brought forward, I alſo mean to reſt; and I am purſuaded that if there is any difference among them, it will be found only to ariſe from a mere tripping of expreſſion. And firſt, I muſt advert to the conſtructive Treaſon of depoſing the King.

And here I muſt remark, that I ſtand in a fearful and delicate ſituation; it is neceſſary therefore that I ſhould occupy a large ground, as not only the life of the Priſoner, at the bar is at ſtake, but the lives of many, who are behind, involved in the ſame queſtion, and dependent upon the ſame iſſue.

As trial was nothing more than the application of the facts diſcloſed in evidence, to a rule of human action or conduct, the breach and violation of which conſtitutes the charge, the preliminary diſcuſſion muſt be (Mr. Erſkine continued) what was the law, and what the breach of it, which the priſoner was called upon to anſwer. To do this, as it became him, upon ſo ſolemn and awful an occaſion, he muſt reſort to the hiſtory of the country, the records of the law, and the authoritative writings of the moſt learned men upon the ſubject of High Treaſon. In doing this, it was not his deſire, as he had ſaid, to preſs upon the the Court any theories or opinions of his own, but to extract, by legal reaſoning, from thoſe unerring ſources—the law of the land upon the ſubject.

As to the crime of High Treaſon at common law, before the ſtatute of the 25th Edward III. upon which the Indictment, and every Indictment for High Treaſon, muſt now be framed, little was neceſſary to be ſaid concerning it; he ſhould therefore diſmiſs the conſideration of the common law on the ſubject of treaſon, with the obſervation of that great, excellent, and moſt learned perſon, whoſe memory would laſt as long as law or conſtitution remained to Engliſhmen, Lord Chief Juſtice Hale, who ſays, "That at common law there was a great

a great latitude uſed in raiſing offences to the crime and puniſhment of treaſon, by way of interpretation and arbitrary conſtruction, which brought in great uncertainty and confuſion. Thus accroaching (*i. e.* encroaching) on royal powers, was an uſual charge of treaſon anciently, though a very uncertain charge, ſo that no man could tell what it was, or what defence to make to it. " He then proceeds to ſtate various inſtances of vexation and cruelty, and concludes with this obſervation, " By theſe and the like inſtances that might be given, it appears how arbitrary and uncertain the law of treaſon was before the ſtatute of the 25th of Edward III. whereby it came to paſs, that almoſt every offence that was, or ſeemed to be, a breach of the faith and allegiance due to the King, was by conſtruction and conſequence, and interpretation, raiſed into the offence of High Treaſon." To remedy theſe grievous abuſes, by which every faction in it's turn ſacrificed it's enemies by arbitrary executions, founded upon conſtructive treaſon, making ancient England like modern France, the wiſe and venerable ſtatute of King Edward III. was made, whoſe excellent and benevolent object was to make treaſon certain. Lord Coke called the parliament who paſſed this ſtatute, *Parliamentum Benedictum*; and the like honour was given to it by the different ſtatutes which, from time to time, brought back treaſon to it's ſtandard, " all agreeing in magnifying and extolling this bleſſed ſtatute." As no Judge ever did or could deny that this ſtatute was enacted to give, by it's letter, all certainty and preciſion to the crime of treaſon, and to prevent the arbitrary conſtructions by Judges, which had disfigured and diſhonoured the ancient law, and brought, to uſe Hale's language, " Inſecurity upon both King and People; it might be affirmed, that this celebrated ſtatute would little have deſerved the panegyrics beſtowed upon it, if it had not, in its enacting letter, which profeſſed to remove doubts, and to aſcertain the law with preciſion, made uſe of expreſſions well known and aſcertained; and it would be ſeen how cautiouſly it did ſo. The two great objects of the ſtatute were to guard, 1ſt, the natural life of the King—and 2d, his executive power and authority. So important was it conſidered to ſave the kingdom from the confuſion into which it muſt be thrown by cutting off the life of the firſt magiſtrate, that it made the *intention* to kill the King equivalent to the *act* of killing him; guarding the pre-eminent life of the ſovereign by ſanction ſuperior to the ordinary laws, which guarded even the ſtate itſelf; and therefore, though a compaſſing the death of the King, Queen or Prince, was made High Treaſon, without the accompliſhment of the purpoſe, yet a compaſſing to murder the Chancellor and Judges, whoſe lives, as the King's repreſentatives, were alſo guarded by the ſtatute, was not made treaſon. To compaſs their deaths, when ſitting in judgment, was not made equivalent to the

act of killing them; no, nor even the *compaſſing* to ſubvert the King's political authority by war and rebellion. The ſtatute not having ſubſtituted the *intention* for the *act* in that branch, leaving the ſecurity of the King's natural perſon and life, and that of his Queen and Prince, the only exceptions to the ordinary rules of judgment and law. In order to prevent arbitrary conſtructions of this ſevere but arbitrary law, and to guard the ſubject from the uncertainty of judicial conſtructions of treaſon, it cautiouſly ſought for an expreſſion well known and underſtood in the ancient law, viz. *compaſſing the death* —the words are, "when a man doth compaſs or imagine the death of our Lord the King."

Mr. Erſkine ſaid, as he wiſhed cautiouſly in this part of his addreſs to avoid every obſervation or opinion of his own, he would reſort to the explanation of this expreſſion by the celebrated Judge Forſter. "The antient writers, (ſays Forſter) in treating of felonious homicides, conſidered the felonious intention manifeſted by plain fact, in the ſame light, in point of guilt as homicide itſelf. The rule was. *voluntas reputator pro facto*, and while this rule prevailed, the nature of the offence was expreſſed by the term *compaſſing the death*. This rule has been long laid aſide as too rigorous in the caſe of common perſons; but in the caſe of the King, Queen, and Prince, the ſtatute of treaſon has with great propriety retained it in it's full extent and rigour, and in deſcribing the offence has likewiſe retained the antient mode of expreſſion. When a man doth compaſs or imagine the death of our Lord the King, &c. and thereof be upon ſufficient proof provablement attainted of open deed by people of his condition, the words of the ſtatute deſcriptive of the offence, muſt therefore be ſtrictly purſued in every indictment for this ſpecies of Treaſon; it muſt charge that the Defendant did traitorouſly compaſs and imagine the King's death and then go on and charge the ſeveral acts made uſe of by the Priſoner to effectuate his traitorous purpoſe, for the compaſſing the King's death is the Treaſon, and the overt acts as the means made uſe of to effectuate the intentions and imaginations of the heart, and, therefore, in the caſe of the regicides. the indictment charged that they did traitorouſly compaſs and imagine the death of the King, and the cutting off the head was laid as the overt act, and the perſon who was ſuppoſed to have given the mortal ſtroke was convicted on the ſame indictment." This inſtance of the regicides, ſelected by Foſter to illuſtrate that the traitorous purpoſe was the crime, was very ſtriking and remarkable.

He then ſpeaks of the ſacred life of the King, and ſpeaking of the Treaſon, ſays, "The Treaſon conſiſts in the wicked imagination, which is not apparent. But when this poiſon ſwells out of the heart, and

and breaks forth into action, in that caſe it is High Treaſon. Then what is an overt act of an imagination or compaſſing the King's death? truly it is any thing which ſhews what the imagination of the heart is." After ſhewing that the noble and ſublime ſpirit of humanity, which pervades and ſupports the whole ſyſtem of our juriſprudence, ever awake to interfere in protection of our imperfect natures, would not ſuffer the ancient law, with reſpect to private perſons, to remain, he ſaid, that for ages paſt the death of the private man had been held neceſſary to the completion of the felony. but as Forſter truly obſerved in the paſſage he had juſt read, this rule, too rigorous in the caſe of the ſubject, the ſtatute of Treaſon reta ned in the caſe of the King, and retained alſo the very expreſſion. The Sovereign's life was made to remain an exception, and the *voluntas pro facto*, the will for the deed, remained the rule; and therefore, ſaid Forſter, the ſtatute meaning to retain the law, which was before general, retained the expreſſion. The ſtatute did not, in it's firſt branch, make a new law in it's principle or expreſſion, but retained the old one applicable to ſubjects. It followed inevitably from thence, that within the letter and meaning of the ſtatute nothing could be a compaſſing of the death of the King, that would not, in ancient times, have been felony in the caſe of a ſubject. The opinion of Judge Forſter was confirmed by that of Lord Coke, by that great prerogative lawyer, whoſe infamous proſtitution in the caſe of Lord Strafford would tarniſh his name to all poſterity; but ſtill his opinions, as a critic and commentator, made him a proper authority for him to uſe. Lord Coke, in his Commentary upon the words of the ſtatute, which he did with that preciſion and technical nicety which, though not calculated to pleaſe the ear, were ſo valuable in a book of ſcience, when he comes to the words "doth compaſs," ſays, "Let us ſee firſt what the compaſſing of the death of a ſubject was before the making of this ſtatute, when *voluntas reputabatur pro facto*." Thus falling in with the opinion of Judge Forſter.

Mr. Erſkine then went on to the next departure of the ſtatute in the 1ſt and 2d of Philip and Mary, which made a compaſſing to levy war, if manifeſted by printing, writing, or overt act, High Treaſon. This ſhewed that a compaſſing to levy war was not conſidered to have been treaſon within the Act of Edward III. which required an actual levying of war. If compaſſing to levy war had been conſidered as compaſſing of the King's death, it would have been unneceſſary to declare it treaſon by this act. The firſt branch of the ſtatute of Edward III. made it High Treaſon to compaſs or imagine the King's death; but the ſecond branch of the ſtatute required an actual levying of war neceſſary to conſtitute treaſon. The law made the natural life of the King ſo much more ſacred than his

his executive authority, that to imagine his death was treaſon, but there muſt be a poſitive attack made upon his executive authority by the levying of war, to conſtitute the other. What was it that was meant to be reſtored by the ſtatute of the 1ſt of Mary? The letter of the 25 of Edward III. or the judicial conſtruction of it? Clearly it was the letter that was to be reſtored. He wiſhed nothing to be taken, he ſaid, from any unauthoriſed opinion of his own; but he wiſhed to bottom himſelf upon the authority of the great Judges whoſe opinions had been preſſed erroneouſly into the ſervice againſt them. He ſaid erroneouſly, becauſe it would be ſeen that their declarations were reconcileable. The writings of thoſe great Judges were thickly ſown with warnings to Judges to avoid conſtructive treaſon. Lord Coke ſays, that "the ſtatute of the 1ſt of Mary ſpeaks a ſtrong language againſt conſtructive treaſons, when it ſays, it was declared by the whole Parliament, that laws juſtly made for the preſervation of the whole common-wealth, without extreme puniſhment, are more often obeyed and kept, than laws and ſtatutes made with great and extreme puniſhments, and in ſpecial laws and ſtatutes ſo made, whereby not only the ignorant and rude unlearned people, but alſo learned and expert men, minding honeſty, are oftentimes ſnapped and ſnared."

"There muſt be a compaſſing or imigination—for an act done *per infortunium*, without *compaſſing*, *intent*, or *imagination*, is not within this act, as it appeareth by the expreſs words thereof.

Et actus non facit reum niſi mens ſit rea.

"This compaſſing, intent, or imagination, though ſecret, is to be tried by the Peers, and to be diſcovered by circumſtances, precedent, concomitant and ſubſeqnent." The Lord Juſtice of Scotland, ſaid Mr. Erſkine, differed from this ſtatute in what he ſaid at Perth, "that very honeſt men were guilty of Treaſon without knowing it." In this ſtatute of Mary, Lord Coke goes on to ſay that two things are to be obſerved, 1. The words expreſſed in the ſtatute of Mary excludes all implications of inferences whatſoever, 2. That no former attainder, judgement, &c. &c. other than ſuch as are ſpecified and expreſſed in the ſtatute of Edward III. are to be followed or drawn into example, for the words be plain and direct. And further on commenting on the word *proveablement*, he ſays, "In this branch, it is to be obſerved, the word proveablement, *proveably*, i. e. upon direct and manifeſt proof not upon conjectural preſumptions, or inferences, or ſtrains of wit, but upon good and ſufficient proof; and herein the adverb *proveably* hath a great force, and ſignifieth a *direct plain proof*, which word the Lords and Commons in Parliament did

did uſe, for the offence of Treaſon was ſo heinous, and ſo heavily and ſeverely puniſhed, as none other the like; and therefore the offender muſt be *proveably* attainted, which words are as forcible as upon direct and manifeſt proof. Note, the word is not *probably*, for then *commune argumentum* (a common argument) might have ſerved, but the word is proveably be attainted." Nothing could be ſo curiouſly and even tautologouſly laboured, as this commentary of Lord Coke upon this ſingle word in the ſtatute; which manifeſtly ſhews that ſo far from it's being the ſpirit and principle of the law of England, to adopt rules of conſtruction, and proof unuſual in trials for other crimes, that on the contrary, the legiſlature did not even leave it to the Judges to apply the ordinary rules of legal proof to trials under it, but admoniſhed them to do juſtice in that reſpect in the very body of the ſtatute.

Lord Hale's words were equally ſtriking. He brings forward inſtances to ſhew "how neceſſary it was that there ſhould be ſome known, fixed, ſettled, boundary for this great crime of treaſon, and of what great importance the ſtatute of Edward III. was in order to that end; how dangerous it was to depart from the letter of that ſtatute, and to multiply and enhance crimes into treaſon by ambiguous and general words, ſuch as accroaching royal power, ſubverting fundamental laws, and the like; how dangerous it was by conſtruction and analogy to make treaſons, when the letter of the law has not done it, for ſuch a method admits of no limits or bounds, but runs as far and as wide as the wit and invention of accuſers, and the deteſtation of perſons accuſed will carry men." Surely the admonition of this ſuperminent Judge, ought to ſink deep into the heart of every Judge, and of every Jury who were called to adminiſter juſtice, under an accuſation upon this ſtatute. The great man ſeems to have had a bird's eye of the preſent trial? he ſeems to have anticipated the horrors of ſuch a confuſed, heterogeneous maſs of papers as were now brought before a Jury; where no ſpecific overt act directly expreſſive of an intention to compaſs the King's death was laid, no preciſe point of a man's life ſpecified—but where four days had been neceſſary to the mere accumulation of the maſs, where a ſpeech of nine hours was required to explain the charge---and a whole life of treaſons was to be collected from inferences, ſpeculations, and tendencies, that no man could touch with his underſtanding, nor treaſure in his memory.

The next and the great queſtion to be conſidered was, how the doctrines of theſe great lawyers, who had thus inveighed againſt conſtructive treaſons were reconcileable with the poſitions to be found in their works, which have been cited and relied on by the Attorney General. In order to diſcuſs the matter with preciſion, they

they muſt advert to the language of the paſſages cited, in doing which they would find that none of theſe great authors had ſaid, that compaſſing to change the laws by force, was treaſon in the abſtract, or that even compaſſing to levy war againſt the King was treaſon in the abſtract; or that compaſſing to impriſon the King, until he yielded to particular demands, was treaſon in the abſtract; but only that any of theſe acts might be laid as overt-acts of compaſſing the King's death; that they were acts that might be legally ſubmitted to the Jury, as the means made uſe of to effectuate the purpoſe charged in the indictment, viz. the compaſſing the death of the King, and might therefore be legally charged upon the record, as overt-acts of that treaſon: the ſtatute required that the compaſſing the death, which was the crime, ſhould be manifeſted by overt-act; the overt-act, therefore, muſt be laid in the indictment. What might be an overt-act was matter of law for the Judges, but whether when ſo laid, it was ſufficient to eſtabliſh the traitorous purpoſe, was matter of fact for the Jury.

This diſtinction was not peculiar to treaſon, but prevaded the whole law of England. What facts were evidence from whence any matter in iſſue might be legitimately inferred, was matter of law; but whether any given facts, which were legally relevant to prove the matter which they were adduced to eſtabliſh, were ſufficiant in any particular inſtance, depended upon the concluſion which the Jury ſhould draw from the facts ſimply, or from the whole evidence upon the trial of the iſſue.

Mr. Erſkine illuſtrated this by a recent caſe, relative to bills of exchange, which came before the Houſe of Lords. When the queſtion was agitated in the ſhape of demurrer to evidence, it was decided by the Houſe of Lords that the concluſion to be drawn from relevant and admiſſible evidence, to prove any matter in iſſue criminal or civil, could not, by demurrer to evidence, or by any other proceſs, be withdrawn from a Jury to the Judges; the province of the Judges being to judge of the law, and conſequently of the irrelevancy and inadmiſſibility of evidence as a branch of law, but that it belonged to the Jury alone in each particular caſe to draw the particular concluſions from relevant and admiſſible evidence. This diſtinction would at once explain all the ſeeming contradiction in the books concerning overt-acts of treaſon; particularly in the treaſon of compaſſing the King's death. The charge of compaſſing being a charge of intention, which, without a manifeſtation by conduct, no human tribunal could try; the ſtatute required that the intention to cut off the Sovereign ſhould be manifeſted by overt-acts, and as a priſoner charged with an intention could have no means of knowing how to de-

defend himſelf, when an intention was the crime, without notice of the facts from whence ſuch intention was to be imputed to him, it was the practice to ſtate, upon the face of the indictment, the overt-act, as the means taken to effectuate his purpoſe; and by the ſtatute 7th William III. no evidence ſhall be admitted or given of any overt-act, that was not expreſsly laid in the indictment.

In order to confirm theſe doctrines, he would make his appeal to every record and authority in the law of England. In the firſt place, ſo far were the overt-act of compaſſing to depoſe for compaſſing to impriſon, or compaſſing to change the laws, by force or intimidation, or any other compaſſing, ſhort of the direct compaſſing the death of the King, capable of being made High Treaſon, that the indictment muſt charge that the priſoner did traitorouſly compaſs the death of the King; and the overt-act can be put upon the record in no other way than as the means by which the exiſtence of that traitorous purpoſe was to be put for the conſideration of the Jury.

He quoted Lord Coke in his 3d inſtitute, 11 and 12, to prove that this was his opinion. The contemplation, purpoſe, and contrivance muſt be found to exiſt, without which, ſays Lord Coke, there can be no compaſſing. Lord Coke's doctrine was ſo implicitly followed by Lord Hale and Forſter, as far as related to this part of the ſubject, that it was almoſt unneceſſary to advert to their works; but as he wiſhed to ſtand upon authority in every ſtage, he would refer to them.

He then quoted from Lord Hale's P. C. page 107. ſtating that the overt-act muſt be laid down ſo far as to enable the imagining to be brought to trial by human judicatures. As long as the Engliſh conſtitution preſerved to a Jury the legal cognizance of facts, we had the beſt ſecurity for the preſervation of the ſubject.

He then enumerated Lord Hale's inſtances, which had been held to be ſufficient overt-acts of compaſſing. "When men conſpire the death of the King, and thereupon provide weapons, &c. or ſend letters for the execution thereof, this is an overt-act within the ſtatute. If men conſpire to impriſon the King by force and a ſtrong hand, until he has yielded to certain demands, and for that purpoſe gather company, or write letters, that is an overt-act to prove the compaſſing of the King's death, as was held in Lord Cobham's caſe by all the Judges."

In this ſentence Lord Hale did not depart from that preciſion which ſo eminently diſtinguiſhes all his writings; he did not ſay that

if men conſpire to impriſon the King, that was High Treaſon; no, nor even an overt act of High Treaſon; but to prevent the poſſibility of confounding the Treaſon with matter which might be legally charged as relevant, he ſaid this is an overt act, to prove the compaſſing the King's death, and as if by this mode of expreſſion he had not done enough to keep the idea aſunder, and from abundant regard for the rights and liberties of the ſubject, he immediately adds, "But then there muſt be an overt-act to prove that conſpiracy, and then that overt-act to prove ſuch deſign is an overt-act to prove the compaſſing of the death of the King."

The language of the ſentence laboured on the ear from the exceſſive caution of the writer; afraid that his readers ſhould jump too faſt to the concluſion, upon a ſubject of ſuch awful moment, he pulls him back after he has read that a conſpiracy to impriſon the King is an overt act, to prove the compaſſing his death, and ſays to him, "But recollect, that there muſt be an overt act to prove in the firſt place the conſpiracy to impriſon the King, and even then that propoſition, that intention to impriſon ſo manifeſted by the overt act, is but in its turn an overt act to prove the compaſſing or intention to deſtroy the King." He ſays too, the detention muſt be forcible, and he proceeds to reprobate a conſtructive compulſion upon the King independently of actual reſtraint.

Lord Hale goes on to diſtinguiſh, between a conſtructive levying of war againſt the King's Executive Authority from conſpiracies to levy war upon his perſon; and declares, that though it might be *prima facia* good upon an indictment when barely laid as a levying war againſt the King, yet it would fail when it appeared in evidence to be no more than a levying war by conſtruction and interpretation. The mind of the Priſoner, which it was the object of the trial to lay open, would be ſhut and concealed from the Jury, whenever the death of the Sovereign was ſought by circuitous means, inſtead of a direct and murderous machination.

It was curious to compare Lord Coke's ſpeech to the Jury as Attorney General againſt Lord Eſſex, with the writings which he had left as monuments to poſterity of the law upon this momentous ſubject. But it was loſs of time to conſider the argument of an Attorney General, who could ſo diſhonour himſelf and degrade his profeſſion, as Lord Coke to his eternal infamy, did in the caſe of Sir Walter Raleigh.

His Honourable and Learned Friend, the preſent Attorney General, would, by his candid proceeding in the opening of this cauſe, go down

down to poſterity with a purer character, though he might not have written ſo many books as this great, baſe, and degraded man. It was fit, nevertheleſs, for the preſent argument to obſerve, that in the caſe of Lord Eſſex, Lord Coke expreſsly treated High Treaſon as a crime of intention. What was the rule with regard to penal ſtatutes of every deſcription? The rule notoriouſly was to adhere rigidly to the letter.

Judge Forſter ſays it may be laid down as a general rule that indictments grounded on penal ſtatutes, eſpecially the moſt penal, muſt purſue the ſtatute ſo as to bring the party preciſely within it. It was needleſs to ſay that if the benignity of the law required this preciſion in the indictment, the proof muſt be correſpondingly preciſe; for otherwiſe the ſubject would derive no benefit from the ſtrictneſs of the indictment. If a defendant could be convicted by evidence amounting to a breach of the real or ſuppoſed ſpirit of the ſtatute only, then the ſtrictneſs of the indictment would be no protection of the Priſoner, but would be a direct violation of the firſt principles of criminal and civil juſtice.

He illuſtrated this by referring to many different caſes. In Mary Mitchell's caſe, Judge Forſter ſays, "Although a caſe is brought within the *reaſon* of a penal ſtatute, and within the miſchief to be prevented, yet if it does not come within the unequivocal letter, the benignity of the law interferes." He referred alſo to Gibbon's caſe, and thoſe of John Howard and John Bell, for illuſtrations of the ſame doctrine.

Having maintained the argument by the letter of the ſtatute itſelf, the authoritative writings whoſe works were for ever referred to by the officers of the Crown in ſtate proſecutions, the next ſtage in the argument was to examine whether theſe authorities had been acted upon. He meant to maintain that in every caſe which was conſidered as a precedent, the ſame conſtruction had been put upon an overt-act, and that no overt-acts had been regarded but ſuch as went directly and not conſtructively as an attack on the perſon of the King. The firſt caſes that deſerved attention after England had her preſent Conſtitution, were the trials on the aſſaſſination plot againſt King William.

The trials of Sir John Frend, Sir William Parkyns, and others before Lord Chief Juſtice Holt; nothing in theſe trials went againſt the principles which he had been endeavouring to eſtabliſh. The charges againſt Sir John Frend were unequivocal; the overt acts relied on were, ſending Mr. Charnock into France to King James, to deſire

deſire him to purſuade the French King, to ſend forces over to Great Britain, to levy war and depoſe King William.

The next overt-act was—preparing men to be levied, to form a corps to aſſiſt in the reſtoration of the Pretender, and the expulſion of King William, of which Sir John Frend was to be Colonel. In this caſe the proof was either to be wholly diſcredited, or it went directly home to a legal overt-act of the compaſſing the death of the King upon the principles which he had laid down. It was not a ſpeculative tendency to his death, but was a conſequence ſo direct and immediate, that he who purſued the act, might be juſtly convicted of the intention, for if the plot had ſucceeded, and James had been reſtored, King William muſt have been neceſſarily attained and executed by the forms of Engliſh law.

Obſerving in the geſtures of the Counſel for the Crown, their heſitation as to this propoſition, he repeated the fact, and ſaid, that indiſputably the reſtored King might, and inevitably muſt have brought King William as an uſurper before a Tribunal like the preſent, either at the Old Bailey, or wherever elſe it ſhould have been appointed.

No man who engaged in that plot could be reaſonably ſuppoſed not to have foreſeen, and to have intended the King's death. Lord Holt's ſumming up did not go beyond this admitted principle. "The Treaſon," ſaid he "that is mentioned in the indictment, is conſpiring, compaſſing and imagining the death of the King. To prove the conſpiracy and deſign of the King's death, two principle overt-acts are inſiſted on.

He did not conſider the overt act of conſpiracy to be the Treaſon, but evidence to prove the compaſſing. He then ſums up the evidence for and againſt the priſoner, and leaves the intention to the Jury as matter of fact. Afterwards he comes to anſwer the Priſoner's objection in point of law. "There is another thing," ſaid Lord Chief Juſtice Holt, "he did not inſiſt upon."

The ſtatute of Edward III. contains divers ſpecies of Treaſon. One is compaſſing and imagining the death of the King, another is the levying war: Now," ſays he, (Frend), "here is no war actually levied, and a bare conſpiracy to levy war does not come within the law againſt Treaſon," To pauſe here a little, ſaid Mr. Erſkine, Frend's argument was this:—Whatever my intention might be; whatever my object by levying war might have been; whatever my deſign: however the deſtruction of the King might have been effected by my conſpiracy if it had gone on; and however it might have

have been my intention that it ſhould, it is not Treaſon within the 25th of Edward III, To which Lord Holt's reply was, —" If there be only a conſpiracy to levy war, it is not Treaſon; it is only a ſubſtantive Treaſon; it is not Treaſon in the abſtract; but if the deſign and conſpiracy be either to kill the King, or to depoſe him or impriſon him, or put any force or perſonal reſtraint upon him by force; and the way of effecting theſe purpoſes is, by levying a war, there the conſpiracy and conſultation to levy war for that purpoſe is High Traaſon, though no war be levied; for ſuch conſultation and conſpiracy is an overt act proving the compaſſing the death of the King.

If Holt had meant to lay down that ſuch a conſpiracy to levy war in order to depoſe the King, without the further intention to kill him, was in itſelf High Treaſon, he would have ſtopped here; but that great lawyer went on to qualify his propoſition by ſaying, that ſuch conſpiracy was an overt act proving the compaſſing; that is, a conſpiracy to depoſe the King was evidence of an intention to deſtroy his life. He then goes on:——" There may be a war levied without any deſign upon the King's perſon, which, if actually levied, is High Teaſon, though purpoſing and deſigning a levying of war is not ſo." Thus, as for example, if perſons do aſſemble themſelves to act with force in oppoſition to ſome law, and hope thereby to get it repealed, this is a levying war and treaſon, though the purpoſing and deſigning is not ſo. So when they endeavour in great numbers, with great force, to make reformation of their own heads without purſuing the methods of the law, that is a levying war; but the purpoſe and deſigning is not ſo; ſo that the objection he makes is of no force.

Here again we have a prophetic glance at the preſent trial; for the whole volume before the Jury, went to no more than to accuſe them of the deſign of making reformation of their own heads, and he concludes by again leaving the matter to the Jury. Lord Holt, therefore, in this Addreſs to the Jury, did not ſay, that if a man conſpired to do an act, which act might produce a given conſequence, and which conſequence, again building conſtruction on conſtruction, and conſequence on conſequence, might lead to the King's death, was an overt-act of compaſſing. But he put the conſpiracy directly, with reference to the point before him, as an immediate and direct conſpiracy to depoſe the King, and to ſet up another. Compare this doctrine with the caſe before us. Let the Jury but turn their eyes to the maſs on the table of the Court. He did not mean to accuſe the law officers of the Crown, but let them reflect on

on the ſort of circumſtances that had been amaſſed and brought together in order to affect the Priſoner at the bar.

Could any man, whatever had been his attention, whatever were his powers of diſcrimination, he defied him to develope the intention, gift, and end of the heap before him. There was conſequence added to codſequencc—there was ſpeculation upon ſpeculatfon—the Priſoner was to be led from this to that—the deſire of enlightening his fellow citizens was to produce a deſire of reform of certain grievances—the deſire of reform was to lead them to republicaniſm this was to lead them to arming and violence—and in ſome future time, this was to produce a change in the frame of our Government, and this change was to affect the King's dignity, and finally, this was to be taken as on overt act of compaſſing his death. If it were not unfit to introduce any thing ludicrous upon ſo ſolemn an occaſion, he ſhould ſay that all this reminded him of the ſtory in every child's gilt book, of "Here was the bull, that toſſed the dog, that worried the cat, and ſo on, till you get to the houſe that Jack built.

Good God! In this land of ſecurity and Juſtice, were the lives of men to be put upon ſuch hazards? Was it in England—Was it in the year 1794, that ſucha trial was brought into a Court of Criminal Juſtice? He knew that he might ſtop even here, and leave the life of the Priſoner confidently to the ſenſe and conſcience of the Jury, for he had marked their unwearied attention, their diſcriminating judgment, and he would ſo leave the caſe, if he were not anxious for the Priſoner's honour, as well as his life. Let them try him by this doctrine of Lord Holt: He told the Jury, in anſwer to a legal objection from the priſoner, that a conſpiracy to levy war was not treaſon, but that a conſpiracy to levy it, for the purpoſe charged in the indictment was an overt act, and it certainly was relevant evidence to prove the intention; for if the conſpiracy was palpable and direct to dethrone King William, the deſign of King William's death was an inference not of law from the act, but of reaſon and fact. Frend might have ſaid that the intention was to ſend King William back to Holland, to reſume his ſtation of Stadtholder, but who would believe him? If the fact was proved that he meant to depoſe the King, and introduce King James, they muſt have found the compaſſing of his death as an inference.

The other caſes of Parkyns, Layer, &c. he did not enumerate, though they all ſerved to confirmhis doctrine; but he had already ſo far exhauſted himſelf, and had ſtill ſo much to go through, that he

he muſt depart from his original intentions of paſſing through all the caſes *ſeriatim*.

He referred to the caſe of Lord George Gordon, and he ſhould not be afraid of the Solicitor of the Treaſury, if he were to act in this way. If he was to come to the Houſe of Commonns with ten thouſand men, for the purpoſe of having a turnpike bill repealed, and they actually did nothing but appear there, that would not be Treaſon. He was now brought to that part of the ſpeech of the Attorney General which referred to a more humble authority than any he had yet mentioned, he meant a part of his own ſpeech on this trial, juſt mentioned,---that of Lord George Gordon.

The Attorney General had ſtated Mr. Erſkine's own propoſition on that part of that trial, as if it was againſt the Priſoner at the bar in the preſent caſe; it ſhould be remembered, that Lord George Gordon was not indicted for compaſſing the death of the King, and Lord Mansfield ſaid ſo on the trial, in which Mr. Juſtice Buller concurred, that the record on that trial, did not contain a charge againſt the defendant for compaſſing the death of the King. Lord Mansfield told the Jury upon that trial,

"The Priſoner at the bar was indicted for that ſpecies of High Treaſon, which is called levying war againſt the King, and therefore it is neceſſary you ſhould firſt be informed what is in law levying war againſt the King, ſo as to conſtitute the crime of High Treaſon, within the ſtatute of Edward III. and perhaps, according to the legal ſignification of the term before that ſtatute. There were two kinds of levying war,——One againſt the perſon of the King, to impriſon, to dethrone, or to kill him, or to make him change meaſures, or remove counſellers: The other, which is ſaid to be levied againſt the Majeſty of the King, or, in other words, againſt him in his regal capacity.

In the preſent caſe, it does uot reſt upon implication that they hoped by oppoſition to a law to get it repealed, but the proſecution proceeds upou the direct ground, that the object was by force and violence, to compel the legiſlature to repeal a law; and therefore. without any doubt, I tell you the joint opinion of us all, that, if this multitude aſſembled with intent, by acts of force and violence, to compel the legiſlature to repeal a law, it is High Treaſon."

Such were the words of the venerable Earl of Mansfield on that trial. Now he would take the liberty, as the Attorney General had alluded

alluded to it, of quoting his own words upon the ſame trial. This was the ſentence alluded to by the Attorney General.

"*To encompaſs or imagine the death of the King.* ſuch imagination, or purpoſe of the mind, viſible only to it's great author, being manifeſted by ſome open act; an inſtitution obviouſly directed, not only to the ſecurity of his natural perſon, but to the ſtability of the government; the life of the Prince being ſo interwoven with the Conſtitution of the ſtate, that an attempt to deſtroy the one, is juſtly held to be a rebellious conſpiracy againſt the other."

This was true, the deſtruction of the King lead to the deſtruction of the State; but did the converſe of this doctrine follow of courſe, as the Attorney General ſeemed to inſiſt upon? That to compaſs or intend any alteration in the other branches of the Legiſlature was compaſſing the King's death. The charge of compaſſing or imagining the death of the King was the inference of reaſon from overt-acts; but did it ever enter into the mind of man, that the intention was matter of law? Certainly not, for it was a fact to be determined by a Jury, and by them only; it was the inference of their reaſon from the facts, and not the inference of law.

What the fate of the Priſoner would be, Mr. Erſkine ſaid, he knew not; he was confident in leaving it to men of honour, diligence and attention who would be guided by the evidence under the rule of the law, which governed this caſe, of real evidence in the cauſe.

What they had heard of in the proceeding of the Secret Committees of the two Houſes of Parliament, under Number A. or Number B. or Appendix C. and as to the evidence that was offered, he hardly knew were he ſtood when he examined it in a court of juſtice: One man heard another ſay ſomething, but he took no notice of it, though employed as a ſpy for the purpoſe; another took ſome notes, but did not hear all that was ſaid; a third heard ſomething, ſomewhere of arms, and ſo on, but nothing of all this in the Priſoner's hearing.

He would maintain, without fear of contradiction, that if any exceſs had been committed, the Spies of Government had proved that they provoked it all. Did he really believe that the Priſoner was guilty he would have taken a very different courſe; but beliving him to be really innocent, he would defend him to the utmoſt of his power.

That

The Societies and the Priſoner at the Bar, as a Member of one of them, were charged with having formed a plan to ſubvert the eſtabliſhed Government of the Country, as the means of carrying into effect their traitorous purpoſe againſt the Life of the King. The charge was not, that they had conſpired to aſſemble the Convention which met at Edinburgh, but that they had conſpired to aſſemble another Convention which never did meet.

All the extraordinary evidence they had heard, and the moſt extraordinary the greater part of was ever heard in a Court of Juſtice, went to prove the intention with which thit ſecond Convention was to be held. Whether a Reform of Parliament was a meaſure likely to produce all the good that ſome expected from it, or all the miſchief that others apprehended, the diſcuſſion was, in the caſe of his Client, neither neceſſary nor proper.

It was ſufficient to examine whether all that had been ſaid, or written, or printed, in the proceedings of the Socicties, on the neceſſity of Reform, for every article of whoſe conduct the Priſoner, in the proceedings of the ſocieties, on the neceſſity of Reform, for every article of whoſe conduct, the priſoner, in the idea of his proſecutors ought to be amenable, who ſaid *bona fide*, with honeſt intention, and in the ſincere belief of its being true, or reſorted to as a mere ſtalking horſe, behind which to prepare the ſhafts of treaſon, and take aim at the life of the king. He was ready to confeſs, that, if the ſame defects in the Repreſentation of the People in Parliament had not been noticed in any former period, had never occurred to perſons in much higher ſtations, and as far as motives of ſelf-intereſt could attach men to any ſyſtem, to perſons who had a much more important ſtake in the Conſtitution of the Country, he might have been led to ſuſpect that the intention of theſe Societies was not exactly what they profeſſed. Happily, however, this was not the caſe. That the Repreſentation of the People was defective, that many and great abuſes had crept into it, and that the health and longevity of the Conſtitution depended upon the correction of thoſe abuſes, was a doctrine ſupported by many and high authorities.

On maintaining this doctrine, the great Lord Chatham built the fame and glory of his life, and bequeathed it to his ſon, who raiſed upon it his own fame and fortune.

If the counſel for the proſecution had choſen to carry their evidence ſo far back, they would have found that the Society for Conſtitutional Information, owed its birth to Mr. Pitt and the Duke of Richmond, whoſe plan of Parliamentary Reform was Univerſal

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Suffrage and Annual Elections; and although he thought, with thoſe whoſe political opinions he had been accuſtomed to conſider with more reſpect, that this would not be an improvement, yet he could not imagine that they, who originally promulgated or ſtrenuouſly ſupported it, had in contemplation the ſubverſion of the Government, much leſs were compaſſing the death of the King. The Duke of Richmond was a man of great fortune, of the higheſt rank, and it was not to be imagined, that by contending for Univerſal Suffrage and Annual Elections, he meant to ſubvert the Government, and ſtrip himſelf of his own honours.

The Duke of Richmond was not only a man of high rank, but well known to be a man of extenſive reading and deep reflection. The plan he propoſed as the only adequate plan for the Reform of Parliament, was not the offspring of raſhneſs or folly, but of information and reflection.

The Duke of Richmond ſaid what he (Mr. Erſkine) ſhould be ready on all occaſions to ſay; and he cared not how many of ſuch miſerable ſpies as had been brought forward to give evidence on this trial, were preſent to take down his words, or, as was more commonly their practice, to report what they thought fit to underſtand by his words, without taking them down: That if the repreſentation of the People in Parliament was not reformed, if the abuſes that had crept into it were not corrected, abuſe accumulating upon abuſe, muſt inevitably lead to a Revolution.

The Duke of Richmond publiſhed his plan in 1782. The plan was addreſſed to Colonel Sharman, and propoſed appointing Delegates by aſſemblies of the People, no matter whether ſtyled Conſtitutional or Correſponding, or any other Societies, to meet in a general Convention. The terms, Delegates and Convention were therefore, no new inventions, no imitations of a French Model, but the natural growth of our own ſoil.

When the Convention met at Edinburgh, although many imprudent ſpeeches were made in it, ſpeeches which he had no inclination, and which the defence of his client did not call upon him to juſtify, the declared intention of thoſe who compoſed it, was to obtain what they, following high, and unſuſpecting authorities, were taught to believe the unalienable Right of the People.

A free and fair Repreſentation in the Commons Houſe of Parliament was the unalienable Right of the People. He did not mean to ſtate this as a right to be recognifed in a Court of Juſtice, in oppoſition

ſition to poſitive law, by which Courts of Juſtice can alone be guided, but as a right not of a new imagination, ſanctioned by the moſt unimpeachable authorities, and in proſecuting which, by legal means, no man incurred either guilt or cenſure.

On this right was founded the right of his Majeſty to the Throne as he himſelf had maintained in Parliament, in oppoſition to the then newly adopted tenets of Mr. Burke. "Of Mr. Burke," ſaid Mr. Erſkine, "I ſpeak not to blame. He poſſeſſes a mind enriched with the greateſt variety of knowledge, the fineſt imagination, the moſt facinating eloquence and moſt extenſive acquaintance with the hiſtory of the Britiſh Conſtitution. He is now ſuffering under a domeſtic misfortune, which every man who ſympathizes in the feelings of another, muſt deplore. I allude not to his change of political opinion as a fault; that change, I think, is to be liberally interpreted. I ſpeak not here to blame any man. I ſpeak to recommend charity among men, for the opinions of one another, to conciliate all hearts in favour of our common country, and by a fair, clear, and unprejudiced application of the Laws of that Country, to induce all to purſue the common intereſt, unterrified by armed Aſſociations on the one hand, or Courts of Juſtice on the other." The Counſel for the Proſecution muſt prove the charge in the indictment, and that ſatisfactorily: not by proof of ſurmiſe and conjecture. To illuſtrate this he quoted the paſſage in Chief Juſtice Eyre's charge to the Grand Jury. "Whether this be a veil under which Treaſon is concealed, &c. He had no doubt but that when this humane language was held, the Judge was unacquainted with the whole of the caſe; but it was ſufficient to ſhew that on the ſurface of it his Client, and thoſe with whom he was implicated, were not traitors.

He next quoted a paſſage from Holt, importing that forced or ſtrained conſtructions are not to be put upon men's words or actions, but that the intention of them is to be tried and made out by clear and palpable evidence. Now let the intentions of the Priſoner and his Aſſociates be tried by this criterion. Were they the firſt to take up the doctrines now charged upon them as proofs of a treaſonable purpoſe?

The firſt witneſs from Sheffield ſaid that he acted upon theſe very doctrines, as the Duke of Richmond had done, whom he never imagined to have any intention of ſubverting the Government, or compaſſing the death of the King. He did not mean to ſay that one man's having committed a crime with impunity would juſtify another in committing a like offence; but that if one man had circulated particular opinions, without ever being accuſed, or even ſuſpected of evil intention, the circulation of the ſame opinions by

other men, was not to be held as evidence of evil intention. To whom did the Duke of Richmond tranſmit and recommend his plan? To Societies provided with half a dozen pikes? No. To Colonel Sharman at the head of ten thouſand men, armed, and in military array: to men not commiſſioned by the King: to the volunteers of Ireland, to whoſe exertions it was owing that his Majeſty now enjoyed the Crown of Ireland.

Theſe men, ſo armed and arrayed held a Convention, not ſecretly, but in the face of day. By the authority of the King? No. By the authority of the Lord Lieutenant? No. By the authority of circular Letters; and ſo far was this from being ſtigmatized as Treaſon, that their demands were complied with—wiſely and properly complied with—for to grant the People their Rights was the ſureſt way to harmonize their minds, and attach their affections to the Government. Of all the Witneſſes called on the part of the proſecution, was there a man, except the ſpies, who ſaid that their intention was any other than a Reform in Parliament by legal and conſtitutional means? If the ſpies were to be believed in contradiction to all the other Witneſſes, the Court and the Jury were miſſpending their time; they might cloſe the proceedings at once, and go home. All but the Spies ſaid, that they would have renounced the Societies with indignation, if they had believed there was any intention of depoſing or killing the King.

How could the poor priſoner at the bar hate the King from whom it was impoſſible he could ever have received an injury? was not the character of his Majeſty ſuch as to conciliate the love and affection of his ſubjects? Did he not confide ſo much in that affection as daily to ride abroad among them, without the parade of guards or attendants? Where, then, was the ground of this black ſuſpicion, as unworthy of the King, as unmerited by his People.

The minds of the men who compoſed thoſe obnoxious Societies were irritated into intemperence by the repreſentations of thoſe who were now his Majeſty's Miniſters, of the abuſes flowing from the decay of Repreſentation and the conſequent corruption of Parliament; and, if the Priſoner at the Bar ſhould be hanged, while the Duke of Richmond was called to a ſeat in the Cabinet, he ſhould ſay---

" ——————— Plate ſin with gold,
" And the ſtrong lance of Juſtice hurtleſs breaks;
" Arm it in rags, a pigmy ſtraw doth pierce it."

He ſhould ſay, that, with reſpect to the protection of known law, we

we were in as bad a ſtate as the People of France, where there was now no law: but there too, he had no doubt, the People would yet claim and obtain law, as the moſt valuable of their rights.

In 1782, during the diſaſtrous period of a War, purſued with as ill ſucceſs as the principles upon which it was undertaken were bad; when increaſe of taxes and decline of commerce had generated diſcontent in every corner of the Country, and turned the minds of men to no mild ſcrutiny of the defects of Government, the Duke of Richmond's plan of Reform was publiſhed, and Conventions were held, which even arrogated the controul of the expenditure of public money, a function which had ever been underſtood to belong excluſively to Parliament.

Here was a direct uſurpation of the authority of Parliament which his Clients were charged only with intending,—"Let us hear," ſaid Mr. Erſkine, "Mr. Burke, on the nature and character of the Houſe of Commons, not with regard to its legal form and power, but to its ſpirit, and to the purpoſes it is meant to anſwer in the Conſtitution.

The Houſe of Commons was ſuppoſed originally to be "no part "of the ſtanding Government of this Country;" but was conſidered as a controul iſſuing immediately from the people, and ſpeedily to be reſolved into the maſs from whence it aroſe. In this reſpect it was in the higher part of Government what Juries are in the lower,

The capacity of a Magiſtrate being tranſitory, and that of a Citizen permanent.—(Citizen! It would be dangerous now to mention the word Citixen, as to mention the word pikes.)—The latter capacity, it was hoped would of courſe preponderate in all diſcuſſions, not only between the people, and the fleeting authority of the Houſe of Commons itſelf.

It was hoped that being of a middle nature between ſubject and government, they would feel with a more tender and nearer intereſt every thing that concerned the people, than the other remoter and more permanent parts of the legiſlature. Whatever alteration time and the neceſſary accommodation of buſineſs may have introduced, *this character can never be ſuſtained, unleſs the Houſe of Commons ſhall be made to bear the ſtamp of the actual diſpoſitions of the People at large.* It would (among public misfortunes) be an evil more natural and tolerable, that the Houſe of Common ſhould be infected with every epidemical phrenzy of the people, as this would indicate ſome con-

conſanguinity, ſome ſympathy of nature with their conſtituents, than that they ſhould in all caſes be wholly untouched by the opinions and feelings of the people out of doors. *By this want of ſympathy they would ceaſe to be a Houſe of Commons.*"

Mr. Burke goes on to ſtate, that "The virtue, ſpirit, and eſſence of the Houſe of Commons conſiſts *in its being the expreſs image of the feelings of the nation.* It was not inſtituted to be a controul *upon* the People, as of late it has been taught, by a doctrine of the moſt pernicious tendency, but as a controul *for* the People.

Thus we ſee that the true intent of the Houſe of Commons is, not to act as a controul upon the People; the King and the Houſe of Lords are the conſtitutional controul and the Commons the voice and organ of the People. But how are they this organ, if they are not choſen by the People, which they now notoriouſly are not. To be convinced of this, it is only neceſſary to look at the Report of the Society of the Friends of the People, which they offered to ſubſtantiate by evidence at the Bar of the Houſe of Commons, and which to this hour ſtands uncontroverted.

Let us hear Mr. Burke on the Houſe of Commons as it is now conſtituted. "An addreſſing Houſe of Commons and a petitioning Nation; an Houſe of Commons full of confidence, when the nation is plunged in deſpair; in the utmoſt harmony with Miniſters, whom the People regard with the utmoſt abhorrence: who vote thanks; when the public opinion calls upon them for impeachments; who are eager to grant when the general voice demands account; "who in all diſ-"putes between the People and Adminiſtration, preſume againſt the "People; who puniſh their diſorders, but refuſe even to enquire in-"to the provocations to them; this is an unnatural, a monſtrous "ſtate of things in this Conſtitution."

"Such an Aſſembly may be a great, wiſe, awful Senate; but it is not to any popular purpoſe an Houſe of Commons." This, he ſays, in his Thoughts on the Cauſe of the Preſent Diſcontents, coolly, ſoberly and deliberately written during the American war: and the word *preſent* will as well apply to this time as to that. In another part of the ſame publication he ſays—"It muſt always be the wiſh of an unconſtitutional Statefman, that a Houſe of Commons who are entirely dependent upon him, ſhould have every right of the people entirely dependent upon their pleaſure. For it was ſoon diſcovered, that the forms of a free, and the ends of an arbitrary Government, were things not altogether incompatible. The power of the Crown, almoſt dead and rotten as Prerogative, has grown up a-new,

a-new, with much more ſtrength, and far leſs odium, under the name of influence. An influence which operated without noiſe and violence; which converted the very antagoniſt into the inſtrument of power! which contained in itſelf a perpetual principle of growth and renovation; and which the diſtreſſes and the proſperity of the Country equally tended to augment, was an admirable ſubſtitute for a Prerogative, that being only the offspring of antiquated prejudices, had moulded in its original ſtamina irreſiſtible princsples of decay and diſſolution." Parliament was indeed the great object of all theſe politics, the end at which they aimed, as well as the inſtrument by which they were to operate.

But before parliament could be made ſubſervient to a ſyſtem, by which it was to be degraded from the dignity of a national council, into a mere member of the Court, it muſt be greatly changed from its original character." Remark, that Mr. Burke here ſays, not the Houſe of Commons, but Parliament. Who does this? not a poor Shoe-maker, like the Priſoner at the Bar, but a Member of the Houſe of Commons, a man well verſed both in political and philological diſtinctions; yet it is evident he means the Houſe of Commons, and thereforee it is an abuſe of words to ſay, that when the word Parliament occurs in the proceedings of the Societies, any thing is meant by it but the Houſe of Commons.

So far is the Priſoner from being conſcious of evil intention, ſo far from imagining he is engaged in a conſpiracy to ſubvert the Conſtitution, that he writes a letter to the moſt eminent and able defender of the Conſtitution, a Member of Parliament and a Privy Counſellor (Mr. Fox), deſiring him to preſent the Petition of the Society to the Houſe of Commons. The anſwer to that letter, altho' ſtating that Mr. Fox is an avowed enemy to Univerſal Suffrage, he preſerves amor.g his papers, and it has been read to you as evidence in ſupport of the proſecution.

He writes alſo to the Society of the Friends of the People, whoſe ſole object he knows to be a Reform in the Repreſentation in the Commons Houſe of Parliament. They alſo return an anſwer, never once ſuſpecting that the object of the Correſponding Society is any thing but a Reform of Parliament, although they diſapprove of their mode of purſuing that object. Then come the Crown Lawyers and ſay, We underſtand better what is meant by theſe letters than thoſe who write them, or thoſe to whom they are written; you ſay they mean only Parliamentary Reform, We, the interpreters of your moſt ſecret thoughts, tell you that they mean ſubverting the whole frame of the Governnent, and deſtroying the King.

Mr.

Mr. Erſkine again referred to a paſſage from Mr. Burke, importing that miniſters had made a lodgment in Parliament, that by laying hold of Parliament itſelf, they had the power of obtaining their object in all caſes, and upon all occaſions. The propoſition contained in this paſſage was unqualified; it was not reſtricted to this or that occaſion, but extended to all occaſions; it aſſerted that the controul of the People over the Executive Power was wholly and abſolutely loſt. Not ſo, ſaid the Defendants; they ſaid nothing was loſt but the controul of the People in the Houſe of Commons.

Would any man ſtand up and ſay he diſbelieves this? if he did, nobody would believe him. The Counſel for the Proſecution contended, that to attack the Parliament was to attack the King, becauſe the King was an eſſential part of Parliament. By no means. Who, in talking of Parliament, in common acceptation, was ſuppoſed to mean the King? When theſe Societies attacked what they thought the abuſes of Parliament, they meant what thoſe who went before them had meant—the abuſes in the repreſentation, which might all be corrected without trenching in the leaſt on the natural political exiſtence of the King. But, it was ſaid, they talked of reforming Parliament by exciting the People.—Mr. Burke had ſaid before them, that no remedy for the diſtemper of Parliament could be expected to be begun in Parliament; and that the people muſt be excited to meet in Counties and in Corporations, and make out, if they could liſts of thoſe who voted, and on what ſide: in ſhort, that, to obtain any correction of the abuſes in the Houſe of Commons, the impulſe muſt come from the People. After a petition for Reform, in 1780, had been rejected, the Duke of Richmond wrote in a manner much ſtronger than thoſe who were now accuſed of conſpiring to lay hold of the Parliament by violence—He wrote, that the leſs Reform had been tried and failed; that not one proſelyte had been gained; that the weight of corruption was ſuch as to bear down every thing; that he had no hopes of Reform from the Houſe of Commons; that Reform muſt come from the People themſelves; and that they ought to meet more numerouſly than ever to claim their undeniable rights, Univerſal Sufferage and Annual Election.

How were the People to aſſert theſe rights after Parliament had refuſed to grant them? In this manner, the perſons under proſecution had done, and profeſſed to do—not by rebellion, but by collecting and bringing before Parliament, the weight and influence of collective opinion. It was ſaid that this war againſt the State had amounted to Rebellion—The aſſertion was unfounded.—What was the State? The ſtate was the Body of the People, with their Sovereign at their head; nothing was Rebellion that had not for its object the deſtruc-

tion

tion or enſlaving of the People and their Sovereign ſo connected, and he truſted he ſhould never hear again that the People all meeting, muſt mean to depoſe the King—that the King ſtood only ſupported by the few who called themſelves the King's Friends, and branded all others with the name of Democrats, or Jacobins, or whatever elſe was the nick-name of the day.

It was clear, from the beginning to the end, that the Societies with which the Priſoner was connected, ſpoke only of the Repreſentation in the Houſe of Commons; and he would maintain, as they did, that they had a right ſo to do; and he knew, that if the People were ſo met, they would be for the continuance of the Crown. It was their inheritance—What a dangerous principle it would be for to lay down, that if the People were collected together, the neceſſary conſequence muſt be the deſtruction of the King? The King's protection ſtood on the love of the People collectively, not on the adherence of this or that deſcription, and to ſay otherwiſe was a libel both on King and People. He was ſorry to hear a man called a traitor for talking of the Rights of Man. The Duke of Richmond had long ſince ſaid that they were the foundation of all legitimate governments. Becauſe men profeſſing, but abuſing the ſame ſentiments, had deſtroyed every thing in France, it ought not to be faſtened upon the Priſoner, that he profeſſing to claim the Rights of Man, meant alſo to deſtroy every thing in England.

Mr. Erſkine ſaid, he would vindicate, in preſence of as many ſpies as could be collected, the Right of the People to oppoſe Deſpotic Power, and to change the form of their Government, when that form was radically and eſſentially bad. He had oppoſed, and always would oppoſe, the Right of Deſpots to prevent any People from forming a Government for themſelves, of the ſweet or bitter fruits of which they themſelves muſt eat.

If the People of France were to ſay to the People of England, "You ſhall have a Republican form of Government," the People of England would ſay, "No; We have already choſen our form of Government, a mixed form, a limited Monarchy, which we approve, and if we did not, we would receive a form of Government from no power on earth but our own."

The People of England have a right to change their Government if they pleaſe; they will not, if you uſe them well; but it is to the denial of this principle all the calamities of theſe trials are to be imputed.

The Duke of Richmond's plan proceeded on the Rights of Man. His Grace, however, had not the merit of being the inventor. He adopted the ideas of Mr. Locke; who maintained the principle of "Salus populi, ſuprema lex eſt," and ſo did Mr. Yorke, in his ſpeech delivered on the Caſtle-Hill, Sheffield. Mr. Yorke, indeed, had hardly the merit of adopting, for he recited what Locke had written, almoſt verbatim.

Mr. Erſkine read the Duke of Richmond's Letter to the Sheliff of Suſſex, in 1780, in which he obſerved there was much good ſenſe, although he could not agree to the whole. It concluded with aſſerting "The people have rights, they know they have rights, and will aſſert and obtain them." How obtain them? by peaceable means, which was all that the Priſoner had attempted. If they libelled Government, if they reſiſted the Magiſtrate in the due Execution of his duty, if they committed any legal offence, they were amenable to legal puniſhment. But when men were conſidering on conſtitutional means of effecting a purpoſe, they could not be found guilty of the crime charged in the indictment. Let no worſe motives be imputed to the Priſoner than to ſo many others who had purſued the ſame object, much leſs the higheſt of all crimes, the crime of Treaſon.

Suppoſe, then, theſe Societies, which they never did, had reſolved to petition Parliament no more. Was there no way for the People to bring about a Reform in Parliament by peaceable means? The Attorney General ſeemed to think that Parliament was a part of the permanent Government, forgetting that it died a conſtitutional death at certain periods, and that there was no neceſſity for reviving it in the ſame form. A voter had a right to ſay, "I will vote for no Parliament that is diſpoſed to reſiſt my rights; I will vote for none who will not call us, the People, their Conſtituents; I will vote for none who will reject our petitions; I will not arm a few individuals to collect taxes, to paſs coerciſe laws, and to be uſed only againſt ourſelves. Such are not the true Houſe of Commons of Great Britain. I will oppoſe ſuch a Houſe of Commons, not by tumult and inſurrection, but by concurring in the appointment of Delegates to conſider how my rights may be ſupported." Such language the people of this country had a right to hold; and how were they to act upon it? They might petition the King. They might give weight to their Petition by ſhewing that it had the ſanction of the public. To collect this opinion they might ſay, "We will not aſſemble in numbers, for that might give riſe to tumult; but we will aſſemble in our reſpective neighbourhoods, and appoint Delegates with inſtructions

ſtructions to confer with other Delegates; and thus without danger or inconvenience, we ſhall collect the public ſentiment, and carry it to that place where we know it will be treated with reſpect. In this way we ſhall obtain our impreſcriptible Rights." This they muſt do, becauſe a Court of Juſtice could not give them their impreſcriptable Rights, conſiſtently with the adminiſtration of the law; but a Court of Juſtice could do that which it was called upon to do in this caſe; it would not on any preſumption of evil intention puniſh any man for legal acts done in purſuit of theſe Rights.

The Attorney General ſeemed to think that petitioning the King on the ſubject of Parliamentary Reform, was to aſk him to do that which his coronation oath forbade him to do, and conſeqnently could only mean to compel him by force. Mr. Erſkine ſaid, he did not underſtand what was meant by this. He never heard it argued that, but for the articles of Union with Scotland, the King might not alter the compoſition of the Houſe of Commons, as far as depended on calling in new places and perſons to elect, without the conſent of the Houſe of Commons. This was the opinion of Mr. Locke, a man inferior to none his country ever produced, except Sir Iſaac Newton.

Mr. Erſkine then proceeded to recapitulate the evidence, obſerving, that he had been obliged to omit many and important topics of general defence, in order to apply his attention to diſembroiling the chaos which he had had no time to conſider but by the indulgence given him by the Court and the Jury.

The original Addreſs of the Correſponding Society they would not have publiſhed, had they thought it criminal. They not only publiſhed it, but they ſent it as a circular letter by poſt, addreſſed to various perſons, and even a copy to the Secretary of State. On the tremendous evidence adduced in this trial, he obſerved that a ſong found among Hardy's papers had been produced againſt him, without the ſhadow of proof that it had been written, publiſhed, or even approved by him. He had received it, as many things were received by men of all deſcriptions in this town, not knowing whence it ceme. It had perhaps been dropt down his area. If ſuch evidence were held ſufficient to affect a man's life, he (Mr. Erſkine) who received and read papers of all ſorts, had probably now in his houſe evidence ſufficient to hang him and his whole family, The Addreſs of the Society was founded on the Duke of Richmond's letter to Colonel Sharman, containing a plan, upon which men of high rank ſat as Delegates in the City of London, with Aldermen of the City of London.

A little time before the Convention met at Edinburgh, a Convention of Delegates from the Counties of Scotland met, of which the Chief Baron of his Majeſty's Exchequer in Scotland was Chairman, and the Lord Advocate, the Dean of Faculty, and Sir Thomas Dundas, now Lord Dundas, ſat as Members.

An application had been previouſly made to Parliament, for a Reform in the mode of electing Members for the counties, and rejected. What did this meeting of Delegates according to their own advertiſement? They met for the purpoſe of altering and amending the Law; they agreed upon certain heads, and reſolved to ſend them: Where? To Parliament? No; but to the ſeveral counties in Scotland to collect opinions and ſignatures. Was this Meeting called treaſonable? No; It would have been called ſcandolous to impute treaſonable motives to any man who attended it.

The object of the Correſponding Society on the firſt piece of evidence, viz. their own Addreſs, was Reform of Parliament, by legal means. Would the jury impure his Client, againſt whom not a contumelious word reſpecting government has been proved, the ſhocking crime of Treaſon for ſupporting a meaſure, ſanctioned by ſo many authorities? Let them read the lines prefixed to the Addreſs of the Correſponding Socieiy, and ſee if they could find any thing in their ſubſequent proceedings to match them.

"On Virtue can alone my kingdom ſtand;
For, loſt this ſocial cement of mankind,
The greateſt Empire ſcarce felt degrees
Will moulder looſe away, till, unſuſtained,
They prone at laſt to ruin ruſh,
Unbleſt by virtue, Government a league
Becomes a circling junto of the great,
To rob by law; Religion mild, a yoke
To tame the ſtooping ſoul, a trick of ſtate
To mark their rapine, and to ſhare the prey
What are without it ſenates, but a face
Of conſolation deep, and reaſon free,
While the determined voice and heart are ſold?
What boaſted freedom but a ſounding name?
And what election, but a market vile
Of ſlaves ſelf-barter'd? Virtue! without thee
There is no ruling eye, no nerve in ſtates;
War has no vigour, and no ſafety peace;
Even juſtice warps to party, laws oppreſs,

Their

Their weak authority protects no more,
Firſt broke the balance, and then ſcorns the ſword.
Thus nations ſink, ſociety diſſolves;
Rapine and guile, and violence break looſe,
Confounding life, and turning life to gall;
Man hates the face of man, and Indian woods
Hide in their ſavage haunts no beaſts ſo fell."

Yet theſe Verſes were written by Thomſon, under the roof of Lord Littleton, under the protection of the Prince of Wales, who perhaps thought that the Rights of the People were the ſureſt guarantee of his own Rights.——By a man who had ſtudied and underſtood the Britiſh Conſtitution, who venerated liberty, but loved order—by a man whoſe works had been the delight of a nation, and to whoſe memory a monument was now erecting.

If the objects of the Societies were treaſonable, then every man who had been a Member of any one of them was guilty of Treaſon, and he held his life as tenant at will of the Attorney General. Of the Convention either held or propoſed, the Attorney General imputed the whole original ſin to the London Correſponding Society. The contrary, however, was the fact.

A Convention of Delegates from the Scot's counties had been held as above mentioned at Edinburgh; and the Societies in Scotland, on the uſual principle of national vanity, reſolved to imitate the example. They agreed on a Convention of their own, and invited the London Societies to ſend Delegates to it. Some of them ſent Delegates, whoſe inſtructions were that they ſhould concur in all Conſtitutional acts for a Reform in the Repreſentation of the People.

Every man was bound by the acts of his agent within the limits of his agency; but if an agent, ſent to buy horſes, ſhould think fit to ſteal horſes or commit treaſon, his employer would be amenable neither for the Felony nor the Treaſon. By the ſame rule, no acts concurred in by thoſe Delegates which were not within the letter of their inſtructions, could effect the Societies by which they were ſent.

Mr. Erſkine arranged, and commented upon the whole of the evidence in a maſterly manner, illuſtrating every objection he took to it by the moſt appoſite and pointed remarks. He warned the Jury againſt giving their ſanction to conſtructive Treaſons, and repeated Dr. Johnſon's remark on the acquittal of Lord George Gordon—

"I hate Lord George Gordon, but I am glad he is acquitted, becauſe I love my country, and love myſelf." He remarked with particular ſeverity on the attempt to implicate Hardy in the charge of providing arms, on no better evidence than becauſe a man at Sheffield had written a letter to him, offering to make pikes, and deſiring him to forward another letter of the ſame tenor to Norwich: although it clearly appeared that Hardy had never read the letter addreſſed to himſelf to any body, nor forwarded the letter to Norwich; and on the ſtill more atrocious attempt to implicate him in the buſineſs of Watt at Edinburgh, from the mere circumſtance of Watt's having written a letter on the ſubject to Hardy, with whom he had never correſponded before, and from whom he had received no anſwer to his letter.

If ſuch evidence were to be tolerated, the moſt innocent, the moſt meritorious man living might be ſtript of his fortune, reputation, and life, by any ruffian who chooſe to addreſs a treaſonable letter to him, and get it conveyed into his houſe. If the witneſſes for the Crown, not ſpies by profeſſion, were worthy of credit, then the priſoner was innocent—if they were not, then the teſtimony of the ſpies, admitted on all hands to be ſufficient of itſelf, was left totally deſtitute of ſupport. One or other ſide of the alternative muſt be taken.

It was impoſſible to ſay that the witneſſes for the Crown were to be believed where their teſtimony made againſt the Priſoner, and diſbelieved where it made for him. If the teſtimony of the ſpies could be ſupported by other witneſſes, whoſe evidence would not prove at the ſame time that the Priſoner never harboured the treaſonable intention imputed to him, why were they not produced?—For this reaſon only, than out of more than 40000 Members of the ſeveral Societies, not one could be found. On the character of ſpies, having no eloquence of his own, he would avail himſelf of the eloquence of a writer (Mr. Burke) who had much.

"A mercenary Informer knows no diſtinction. Under ſuch a ſyſtem, the obnoxious people are ſlaves, not only to the Government, but they live at the mercy of every individual; they are at once the ſlaves of the whole community, and of every part of it; and the worſt and moſt unmerciful men are thoſe on whoſe goodneſs they moſt depend.

"In this ſituation men not only ſhrink from the frowns of a ſtern Magiſtrate; but are obliged to fly from their very ſpecies. The ſeeds

of

of deſtruction are ſown in civil intercourſe and in ſocial habitudes. The blood of wholeſome kindred is infected.—Their tables and beds are ſurrounded with ſnares. All the means given by Providence terror and torment.

This ſpecies of univerſal ſubſerviency, that makes the very ſervant who waits behind your chair the arbiter of your life and fortune, has ſuch a tendancy to degrade and abaſe mankind, and to deprive them of that aſſured and liberal ſtate of mind which alone can make us what we ought to be, that I vow to God I would ſooner bring myſelf to put a man to immediate death for opinions I diſliked, and to get rid of the man and his opinions at once, than to fret him with a feveriſh being, tainted with the jail-diſtemper of a contageous ſervitude, to keep him above ground, an animated maſs of putrefaction, corrupted himſelf, and corrupting all about him.

My whole argument, therefore ſays Mr. Erſkine, aſſerts no more than this, That before the crime of compaſſing the King's death can be found *by you, the Jury*, whoſe province it is to judge of its exiſtence it muſt be belived *by you* to have exiſted in point of fact.

Before you can adjudge a FACT, you *muſt believe* it—Not ſuſpect it, or imagine it, or fancy it—BUT BELIEVE IT—and it is impoſſible to impreſs the human mind with ſuch a reaſonable and certain belief, as is neceſſary to be impreſſed, before a chriſtian man can adjudge his neighbour to the ſmalleſt penalty, much leſs to pains of death, without having ſuch evidence as a reaſonable mind will accept of, as the infallible teſt of truth. And what is that evidence? Neither more nor leſs than that which the conſtitution has eſtabliſhed in the Courts, for the general admiſſion of Juſtice, namely, that the evidence convinces the Jury beyond all reaſonable doubt, that the criminal *intention* conſtituting the crime exiſted in the mind of the man upon trial, and was the main ſpring of his conduct.

The Rules of Evidence, as they are ſettled by law, and adopted in its general adminiſtration, are not to be over-ruled, or tampered with. They are founded in the charities of Religion—in the philoſophy of Nature—in the truths of Hiſtory, and in the experience of common life. And whoever ventures raſhly to depart from them, let him remember that it will be meted to him in the ſame meaſure, and both God and man will judge him accordingly.

Gentlemen, theſe are arguments addreſſed to your reaſons and conſciences, not to be ſhaken in upright minds by way of precedent, for

for no precedents can ſanctify injuſtice; If they could, every human right would long ago have been extinct upou the earth.

If the State Trials, in a bad hour, are to be ſearched for precedents, what murders may you not commit; what law of humanity may you not trample upon; what rule of juſtice may you no violate; and what maxim of wiſe policy may you not abrogate and confound.

If precedents in bad times are to be implicitly followed, why ſhould we have heard any evidence at all? you might have convicted without any evidence, for many have been ſo convicted in this manner, murdered even by Acts of Parliament.

If precedents in bad times, are to be followed, why ſhould the Lords and Commons have inveſtigated theſe charges, &c. and the Crown have put them into this courſe of judicial trial, ſince, without ſuch a trial, and even after an acquittal upon one, they might have attainted all their Priſoners by act of Parliament?—They did ſo in the caſe of Lord Strafford. There are precedents, therefore, for all ſuch things:—But ſuch precedents as could not for a moment ſurvive the times of madneſs and diſtraction which gave them birth, and which, as ſoon as the ſpurs of the occaſion were blunted, were repealed and execrated even by Parliaments; which, little as I may think of the preſent are not to be compared with it.—Parliament ſitting in the darkneſs of former times—in the night of Freedom, before the Principles of Government were developed, and before the Conſtitution become fixed.

The laſt of theſe precedents, as I before ſtated to you, and all the proceedings upon it, were ordered to be taken off the file an burnt, to the intent that the ſame might no longer be viſible in after ages; an order, dictated no doubt by a pious tenderneſs for notional honour, and meant as a charitable covering for the crimes of our Fathers: But it was a ſin againſt Poſterity, it was a Treaſon againſt Society—for inſtead of commanding them to be burnt, they ſhould rather have directed them to be blazoned in large letters upon the walls of our Courts of Juſtice, that like the characters decyphered by the Prophet of God to the Eaſtern tyrant, they might enlarge and blacken in your ſights, to terrify you from acts of injuſtice.

In times when the whole habitable earth is in a ſtate of change and fluctuation, when deſerts are ſtarting up into civiliz'd Empires arouud you, and when men, no longer ſlaves to the prejudice of particular countries,

countries, much leſs to the abuſes of particular Governments, enliſt themſelves like the citizens of an enlinhtened world into whatever communities ſhall beſt protect their civil liberties, it never can be for the advantage of this couutry to prove that the ſtrict unextended letter of our law is no cretain ſecurity to its inhabitants. On the contrary, when ſo dangerous a lure is held out to emigration, it will be found to be the wiſeſt policy of Great Britain to ſet up her happy Conſtitution, the ſtrict letter of her guardian laws, and the proud condition of equal freedom, which her higheſt and loweſt ſubjects ought equally to enjoy.

It will be her wiſeſt policy to ſet up theſe firſt of human bleſſings againſt thoſe charms of change and novelty which the varying condition of the world is hourly holding out, and which may deeply effect the population and proſperity of our conntry. In times when the ſubordination to authority is ſaid to be every where but too little felt, it would be found to be the wiſeſt policy of Great Britain to inſtil into the government an almoſt ſuperſtitious reverence for the ſtrict ſecurity of the laws, which from their equal adminiſtration can ſeldom work injuſtice, and which, from the reverence growing out of their mildneſs and antiquity. acquire a ſtability in the habits and affections of men far beyond the force of civil obligation ; whereas ſevere penalties and arbitrary conſtruction of laws intended for eaſe and protection, lay the foundations of alteration from Government, which, at all times is dangerous, but at this time is certain and ſudden ruin.

Cultivate the old maxim of the Church ‘ ſurſum coida ;’ look to the hearts of all your ſubjects, and do not entertain ſo ſtupid an imagination as that in days like theſe, a country can be preſerved by corrupting one half of the people to defame and perſecute the other.

At a time when England may be put to great difficulties to ſupport herſelf, even when the whole nation draws together with one heart and accord, is it wiſe at ſuch a time to ſet up Lawyers to tell us that every man who ſees and feels, and is determined to aſſiſt in removing the corruptions which are the parents of theſe calamities, are traitors to the Sovereign, and plotters of his death? Gentlemen, if this doctrine is eſtabliſhed by your verdict, you do not leave your Sovereign, the King, one half his ſubjects ; and although you may, in the ordinary courſe of things, keep the peace in England upon theſe principles, by armed aſſociations and the terrors of legal tribunals, yet, if ever the independence of the Nation were aſſailed by foreign force, in one hour would deſolation come upon you.

Look to the fruit of theſe miſerable factions and diviſions in Brabant! If the late Emperor Joſeph had given to his ſubjects fully, and at once, the "Joyeuſe Entree," their ancient Conſtitution, derived from the good Duke of Burgundy, to obtain which, I remember the ſame movements as in this country for the Reform of Parliament, they would—I know what I ſay—it is not what I have heard or read of—I have ſeen the proceſs of the thing of which I am ſpeaking—they would have riſen in a maſs to maintain their own liberties, and their Prince's throne, thus interwoven together; and the French, like the Giants of Antiquity (and they are indeed Giants of modern times), when they attempted Heaven, would have been rolled and trampled in the mire of their ambition.

But inſtead of this conceſſion in due time, the Pruſſian army marched into Brabant, and all was peace but it was ſuch a peace as there is in Veſuvius or Ætna before they vomit forth their lava, and roll their conflagrations over the devoted habitations of men! When the French approached, the fatal effects were ſeen of a Government of conſtraint and terror; the well-affected were diſ-ſpirited, and the irritated were inflamed into fury. At that moment the Archduchеſs fled from Bruſſels, and the Duke of Saxe Teſchen was ſent to offer them the "Joyeuſe Entree."

But the ſeaſon of conceſſion was paſt away; and the Throne of Brabant has departed from the Houſe of Auſtria—I fear, for ever! In the ſame way, a far more important and ſplendid Throne departed from his Majeſty's illuſtrious Houſe. I will not give you my own words; I will again refer to the almoſt divine and immortal oration of Mr. Burke:—

"For that ſervice, for all ſervice, whether of revenue, trade, or empire, my truſt is in her intereſt in the Britiſh Conſtitution. My hold of the Colonies is in the cloſe affection which grows from common names, from kindred blood, from ſimilar priviledges, and equal protection. As long as you have the wiſdom to keep the ſovereign authority of this country as the ſanctuary of Liberty, the ſacred temple conſecrated to our common faith, wherever the choſen race and ſons of England worſhip Freedom, they will turn their faces towards you.

The more ardently they love liberty, the more perfect will be their obedience. Slavery they can have any where. It is a weed that grows in every ſoil. They may have it from Spain; they may have it from Pruſſia; but until you become loſt to all feeling of your

your true intereſt and your national dignity, Freedom they can have from none but you.

It is the ſpirit of the Engliſh Conſtitution which pervades, feeds, unites, invigorates, vivifies, every part of the Empire, even down to the minuteſt Member. Is it not the ſame virtue which does every thing for us here in England; Do you imagine that it is the Land-tax Act which raiſes your Revenue; that it is the annual vote in the Committee of Supply which gives you your Army? or that it is the Mutiny Bill that inſpires it with bravery and diſcipline? No! ſurely no! It is the love of the People; it is their attachment to the Government, from the ſenſe of the deep ſtake they have in ſuch a glorious Inſtitution, which gives you your army and your navy, and infuſes into both that liberal obedience, which without your army would be a baſe rabble, and your navy nothing but rotten timber." Such was the language of that ſublime writer, whoſe opinions, if they had been followed would have done more than ſaved you America; it would have ſaved you the affection and admiration of mankind. Inſtead of this you were mad to perſevere in that horrible conteſt, to procure the means of extending that corruption at home, over thoſe whom Mr. Tooke is repreſented to have called the Skip-jack Nobility, and in ſo doing you loſt the colonies for ever.

My wiſh and my recommendation is not to conjure up a ſpirit among us to deſtroy ourſelves, by bringing on the tyranny of a French tribunal, where an accuſation is enough to bring its object to the guillotine. Let us keep to the old and venerable rules and laws of our foreſathers; and let a Jury of the country feel the duty they owe to the Public, to themſelves, to poſterity, and to God, to preſerve by law the life of a man who only aſks it of them on the terms they would, in their turn, aſk their own.

I ſhall now conclude with a fervent wiſh and fond hope, that it may pleaſe God, who guides the world, moulds governments at his will, and who governs us all in juſtice and in mercy; from whoſe care and bounty has ariſen the proſperity and glory of this happy iſland, to enlighten and direct your minds! To your care I now commit my client, without fear, being confident that you will do him juſtice.

Witneſſes called in Defence.

The Court and Jury returned into Court at nine; and, after being called over, Mr. Erſkihe called

Lorimond Goddard.

Are you a Member of the Correſponding Society? Yes; I entered into it about two years ſince, and withdrew my name after Mr. Hardy was apprehended.

Did you frequent the ſame diviſion? Yes; frequently.

What was his conduct? The moſt orderly and peaceable. He even requeſted that no perſon would bring a ſtick, leſt it might be conſtrued into an offenſive weapon.

What was his object, as it appeared to you? A Parliamentary Reform in the Houſe of Commons.

Did it appear to you that he wiſhed to dethrone the King? Certainly not.

Did you ever hear him argue, that the Houſe of Peers was a uſeleſs body, and ought to be aboliſhed? No? his diſcourſe, when he did ſpeak (which was ſeldom) was confined entirely to the means of reforming the Houſe of Commons.

What

What was his general character? ſo far as I know, or have heard, perfectly harmleſs and honeſt.

Croſs-examined by the Attorney General.

You ſay, that you have frequently converſed with him on political ſubjects? Yes; and as I ſaid before, I thought his ſentiments were highly friendly to the principles of the Conſtitution.

Was you at the meeting at the Globe? Yes.

Did you ſee the Reſolutions entered into? Yes; (the paper ſhewn) and the witneſs believed it was correct.

Was you at the meeting at the Crown & Anchor? Yes.

Did you not hear ſeveral Songs at theſe meetings; Yes; I have heard many ſongs after dinner, but I do not recollect the contents.

Perhaps I may refreſh your memory. Was there not one ſung which began with the following words:

" Plant, plant the Tree,
" Fair Freedom's Tree,
" 'Midſt blood, and wounds, and ſlaughter."

No; I do not recollect any ſuch words being ſung; and if they were, you ſeem to be much better acquainted with the ſong than I am, (A laugh.)

Court

Court. The levity is highly reprehenſible; and, indeed, criminal. It is offending the dignity and ſolemnity of the Court. Officers, if you ſee any perſon guilty of ſuch groſs indecency, I direct you to take him into cuſtody immediately. The Crier called ſilence.

Was you at the meeting at Chalk Farm? I was, and every thing was peaceably conducted.

What was the intention of that meeting? I underſtood it was to elect freſh Delegates; but the meeting was diſperſed.

Do you know that a circular letter was ſent by the priſoner into Scotland, and ſeveral parts of England, containing inſtructions for aſſembling a Convention at Edinburgh? I have heard, but I never ſaw thoſe inſtructions.

Do you know the fact? I know that Margarot and Gerald were deputed to be the Delegates from the Correſponding Society to the Convention, and therefore I cannot doubt the fact.

Do you know Mr. Thelwall? Yes.

Then you have ſeen ſeveral of his conſtitutional ſongs? I have had ſeveral of them in my poſſeſſion, but I cannot recollect the particular words of either of them.

Did Mr. Hardy viſit Margarot whilſt on board the tranſport ſhip? I have heard that he did; but it was after the viſit had taken place. Re-

Re-examined by Mr. Gibbs,

You poſitively ſwear, that during all your communication with the Priſoner, you never heard or underſtood that his views extended beyond a Reform in the Commons Houſe of Parliament? I do poſitively ſwear ſo.

What was that Reform? I always underſtood it to be according to the plan laid down by the Duke of Richmond—Annual Elections and Univerſal Suffrage.

Francis Dowling, of New-ſtreet, Covent-Garden, examined by Mr. Gibbs.

What are you? I am a truſs maker.

Was you a member of the ſociety in queſtion? I was amongſt the earlieſt members, and belonged to the Diviſion, No. 2.

You know Mr. Hardy, and what were his public principles? As far as I could learn, ſimply to effect a Reform in the Repreſentation in the Houſe of Commons.

Did he wiſh to effect this reform by open force, or by over-awing the Parliament? By no means; his views, as far as I could learn, were to obtain the ſenſe of the whole nation by means of a Convention; and if it ſhould be found to be in favour of the meaſure then to apply, by petition, to the three branches of the Le-Legiſlature.

Did

Did it appear to you, that he intended to abridge the King of his authority? I never heard the moſt diſtant hint of ſuch an intention.

Or to aboliſh the Houſe of Lords? No; never.

Do you know what character he bears? I have always heard that he was a peaceable aud orderly man, and rather of a religious turn of mind.

Croſs-examined by the Attorney General.

With reſpect to the meetings and reſolutions at the Globe Tavern, Chalk Farm, &c. his anſwers were ſimilar to thoſe given by the laſt witneſs, and therefore need no repetition.

Do you know Franklow of Lambeth Walk? I do.

Was not a Club formed at his houſe, called The Loyal Lambeth Aſſociation? I have heard there was.

Have you heard that the members of this club exerciſed themſelves with muſquets? I have heard ſo, but I do not know the fact.

Have you ever ſeen a letter from Sheffield, ordering pikes to be made? I never did.

Why, did you not know Edwards, one of the delegates, and Hilliard? Yes, but I never ſaw them have any pikes.

Was

Was you at Robin's coffee-houſe when Mr. Yorke took his leave? I was not.

Have you ſeen a hand-bill like this, beginning, Speedily will be performed a Farce: or, G——'s Head in a baſket? (the hand bill ſhewn). No, I never ſaw or heard of ſuch a hand until this time.

Or this hand bill? (the bill ſhewn)

"The Inns tell us we are in danger from an invaſion of the French.—The Outs tell us that we are in danger from the Heſſians or Hanoverians. In either caſe, we ſhould arm ourſelves; get arms and learn how to uſe them." I never ſaw this bill.

Have you not heard that a bill-ſticker was employed to ſtick bills in the night? I have heard that a perſon was to be paid for that purpoſe.

You admit you were at Chalk Farm, do you know what were the reſolutions entered into at that meeting? I do not recollect.

Did you vote for them? Yes, I did.

What, did you vote for reſolutions which you did not underſtand or hear? I voted for them on account of the good opinion I entertained of the perſons who drew them up and propoſed them.

Who were thoſe perſons? I underſtood Martin, Thelwall, and Lovett.

Did you ſee a paper purporting to recommend that no more petitions ſhould be preſented, as it would be uſeleſs? No, I never ſaw ſuch a paper.

What character does the briſoner bear? I always underſtood his character was without reproach.

Did you ever ſee the priſoner produce a letter from Sheffield, at any of the meetings, purporting to be an anſwer from that town reſpecting any orders for the manufactory of pikes? No; the priſoner never produced ſuch a letter to me, or any other perſon in my preſence.

How long have you known Mr. Hardy, and what is his character? I have known him upwards of twenty years; I never heard any otherwiſe than that he was an orderly, quiet, peaceable man, a good friend and a good neighbour, for any thing I ever heard.

Is that his general character? I always underſtood it was ſo.

Mr. Law croſs-examined this evidence.

What are you? An independent man; I employ my property ſometimes in the Stocks, ſometimes in purchaſing lands, &c. as it beſt ſuits me. A relative, named Hunter, introduced me into the Society. Was

Was you at the meeting the 2d of May, when Mr. Wharton was in the chair? No; I never attended any meeting of the Conſtitutional Society.

Was you at the anniverſary dinner at the Globe Tavern? Yes; I was.

Was you at the meeting at Chalk Farm? Yes.

Then you are acquainted with the reſolutions entered into at thoſe meetings? I am not. I heard them read, but I did not attend to them.

Why? I have an habitual inattentiveneſs about me, and always had.

Where did you go after the meeting at Chalk Farm? I went with Mr. Lovett, the Chairman, and other members, to No. 3, in Compton-ſtreet, Soho, where we all ſupped.

Have you ever ſeen the priſoner produce a letter from Sheffield, reſpecting pikes? No; I never have.

Did you hear any ſongs ſung at any of the dinners? Yes, ſeveral.

Of what tendency were they; were they ſeditious? I do not recollect any thing about them.

You ſtate yourſelf to be a man of property! pray was you ever in buſineſs? Yes. What

What was it? I cannot now exactly recollect.

Try. Upon the queſtion being repeatedly put, the priſoner ſaid he was a perfumer and hair-dreſſer, about twelve yea.s ago,

Alexander Fraſer, examined by Mr. Gibbs.

What are you, Sir? A taylor. I became a member of the Correſponding Society in April 1793.

While you was a member, what were the views of the ſociety? Our only object, at leaſt as it appeared to me, was to obtain a Reform in the Houſe of Commons, by a full and fair repreſentation of the people of Great Britain in that Houſe.

Did you at any time collect from the members, that they entertained a project to effect a Reform by force of arms? No; by no means whatever.

How long have you known the priſoner, and what is his character? I have known him many years, and I neither know nor ever heard but that his character was unblemiſhed, both as a tradeſman and as a moral man.

Here were a few croſs queſtions put, of no importance.

Thus far the evidence went to eſtabliſh the views of the Society, and to wipe away any impreſſion which might

might have been made on the charge of any deſign to attack the King or Conſtitution.

The next head conſiſted of evidence to the priſoner's character.

William Barkley.

What are you? I am a ſhoemaker.

Do you know the priſoner at the bar, and what is his character? I have known him thirty years. He lived as foreman with me ſeven years: he has quitted me about three years. He was a faithful ſervant, and, as a man, I know him to be peaceable, quiet, and orderly.

Are you a member? No; I was never admitted into any political ſociety.

The Rev. Mr. Oliver, a Diſſenting Miniſter—I have known Mr. Hardy three or four years, during which time I have been intimate with him.

Did you ever hear him ſpeak about the ſocieties to effect a Parliamentary Reform? I have ſeveral times heard him ſay, when the Society has been the topic of diſcourſe, that their object was to obtain a Reform in a peaceable and legal way, upon the plan laid down by the Duke of Richmond and Mr. Pitt in the year 1782.

I have ſeen the priſoner in his own houſe ſince the report

port of the committe was made to the Houſe of Commons.

Lord Preſident—I deſire the witneſs would recollect himſelf. "I beg your Lordſhip's pardon, I feel myſelf in an error; but I aſſure your Lordſhips, that it was not an intentional error."

Lord Preſident—I apprehend not. Go on I believe it was in May or June when I ſaw him laſt; and he then, in a converſation, avowed the ſame views and principles. from which he had at no time varied in the courſe of many other converſations.

Are you a member of the Correſponding or Conſtitutional Society? No; I have divine ſervice to perform; and four ſermons to deliver every Lord's Day, and I therefore cannot dedicate any time to ſtudy politics.

What is the character of the Priſoner? I really and conſcientiouſly believe, that he is a man who fears God, honours the King, and loves his Fellow-creatures.

Daniel Stuart, Secretary to the Committee of the Friends of the People, examined by Mr. Gibbs.

Do you know the Priſoner, Hardy? Yes. I have ſeen him ſeveral years ſince, but never coverſed with him until December 1792. which was in conſequence of a letter ſent by him to the Society of the Friends of the People, to wich I wrote an anſwer, under the directions of

of the Committee, and carried it to the priſoner's houſe. From that time there aroſe an intimacy, and I uſed to call upon him three or four times in a week, aud ſcarcely ever leſs than twice.

What was your converſation reſpecting a Reform? Whenever we converſed, the Priſoner always ſaid, that the object was ſolely to reform the Repreſentation in the Houſe of Commons. For that purpoſe he continued to inform the People at large of the bad ſtate of Repreſentation, under the hopes of obtaining their ſignatures to petitions, which were to be preſented to each branch of the Legiſlature, in order to obtain redreſs.

Did you ever hear him ſay, that it was his intention, or that of any other perſon, to obtain this Reform by force? Never.

Did you agree to the ſame plan with the priſoner? No; we differed widely in our opinion; not on the neceſſity of bringing the meaſure about, but on the mode of effecting it. Hardy inſiſted that the Duke of Richmond's plan was the beſt, and that any thing ſhort of that would be of no avail, as it would not be a radical cure for the corruption which had, from time to time, crept into the Repreſentation of the People; whereas my opinion was contrary, as I thought that Univerſal Suffrage would be too extenſive, and that an Annual Election was too ſhort a period. I rather inclined to the Conſtitution, eſtabliſhed at the Revolution in 1688, with an extenſion to all taxable people who bore the burthens of the ſtate. What

What is his character? A harmleſs peaceable man, of ſober converſation, amiable manners, and good morals.

John Carr, a very reſpectable ſchool-maſter. I have known the priſoner twenty years; he has always been a man of a remarkable peaceable diſpoſition, and of the beſt character.

Three other witneſſes gave the ſame kind of teſtimony.

John Stevenſon, a coal merchant—I have known him nine years; he was always peaceable: and, as a moral man, I do not know his ſuperior.

Peter Macbean, a ſhoemaker—I have known the Priſoner ſeventeen years, and he has always bore an amiable character, both civil and religious.

Croſs-examined by Mr. Garrow.

Are you a Member of the Correſponding Society; Yes; andwas a member at its firſt inſtitution. I continued to be a member for two yesrs, and uſed to attend the Diviſion, No. 8.

Did you not ſubſcribe for Mr. Paine's Works? No.

Did the Diviſion which you belonged to, enter into a ſubſcription for thoſe works? Not that I know of.

Recollect.

Recollect. Did you never hear ſo? No; I cannot charge my memory with any ſuch circumſtance.

You ſay, that you was one of the firſt members. Where was it then held? In Exeter-ſtreet.

How many members had you, and who was in the chair? Margarot was in the chair at the meeting which I attended; and, I believe, there were thirty or forty members preſent.

Who drew up the original laws of the Society? I am not certain whether it was Mr. Margarot, or whether they were ſettled in a committee.

Alexander Gordon, a cordwainer—I have known the Priſoner twenty years, during which time he has borne an excellent character for peaceable behaviourr honeſty and induſtry.

John Boak, a cabinet-maker—I have known him ten years; he was. during that time, a peaceable honeſt, quiet man.

Matthew Dickey—I have known the Priſoner five years, and have always underſtood him to bear an excellent character, particularly peaceable and orderly.

Mr. Gibbs—My Lord, we have not gone through half of the evidence for the Priſoner; and as my learn-

ed friend, Mr. Erſkine, has, by his great exertions, indured ſuch fatigue, I truſt the Court will indulge us with an adjournment.

Lord Preſident—The Court is very deſirous to make all the progreſs poſſible. This ſeems to be a duty both with reſpect to the Jury and the Priſoner. I therefore hoped and expected, that the evidence to character might have been finiſhed to night, that the Attorney General might reply on Monday.

The Attorney-General gave his aſſent for an adjournment.

The Court, at one o'clock on Sunday morning, adjourned to Monday morning, at ſeven.

After the adjournment, a miſtaken perſon ran down to the gate, and called out, "An acquittal! An acquittal!" upon which a numerous aſſemblage of people, aſſembled in the Old Bailey, burſt into a loud huzza.

The Court was ſtruck very much; the avenues were cleared, and the people were undeceived. In about three minutes, a ſtill louder huzza was repeated, ſeveral times. The Sheriffs were directed to enquire into the cauſe; and upon their return reported, that Mr. Erſkine had that moment entered into his carriage, and the populace had welcomed him with their gratulations.

Mr.

Mr. Sheridan and Mr. Gray were likewiſe applauded. The populace proceeded to take out the horſes from Mr. Erſkine's carriage. He remonſtrated with, and earneſtly deſired them to deſiſt, but in vain, for they effected their purpoſe, and drew him in his carriage to Serjeant's Inn, with continued ſhouts of triumph. When he alighted, he addreſſed the great body of people, deſiring them to be peaceable, and to return to their homes: not doubting but the laws of their country would protect innocence, and diſpenſe equal juſtice to every man. The populace gave him three cheers, and departed quietly.

SIXTH DAY.

Monday, Nov. 3.

THE Court ſat at half paſt eight in the morning, and proceeded on the evidence for the priſoner.

Mr. Erſkine ſtated, that he meant to call a witneſs, to prove that a letter, which had been given in evidence on the part of the proſecution, written by one Davidſon, who had reſided at Sheffield, to the Secretary of the Norwich Patriotic Societies, and encloſed in another, which was ſent to Hardy, was found in Hardy's poſſeſſion, unopened, at the time he was taken in cuſtody.

That ſuch was accordingly proved; and Chief Juſtice Eyre obſerved, that Hardy had no right to open the letter that was incloſed for the ſecretary at Norwich; but what conſtituted the weight of the proof in favour of Hardy, was, that he had not ſent the letter to Norwich.

David Martin ſaid, he was an engraver, and lived at Sheffield. He had reſided there about twelve years, and

and carried on trade. He had become a member of the Sheffield Society within three months of its commencement, and had continued to be a member until the time that Camage, and others, had been taken up by Government. He ſaid, his object was to obtain a Reform in the Commons Houſe of Parliament, by legal and conſtitutional means; and from all that he obſerved, heard, and ſaw, in the courſe of his attendance on that ſociety, he had no reaſon to ſuppoſe, that their views were different from his.

He had not the moſt diſtant idea that the Society meant to attack the Government by an armed force. He was a member at the time that they ſent Delegates to the Convention that aſſembled in Edinburgh. The object of the Sheffield Society, in ſending their Delegates was, to co-operate with the other Delegates from the different Societies, to produce the end he had already mentioned; namely, a Reform in Parliament. After the petition, ſigned by a few individuals, for a Parliamentary Reform, which had been preſented by Mr. Grey, had been rejected, they thought the general ſentiments of the people, as far as they could be collected, would make an impreſſion on the Houſe, and induce them in their juſtice to grant the prayer of the petition. If he had imagined that thoſe gentlemen, who had been delegated from different Societies, had been to conſtitute a Convention at Edinburgh, for the purpoſe of deviſing the means by which the Parliament ſhould be forced to grant a Parliamentary Reform, he ſhould not have continued a member of the Society.

On

On his croſs-examination, he ſaid, the perſons who principally managed the buſineſs of the Society, were a Committee. He knew a perſon of the name of Gales. He ſaid, he, (the witneſs) was an aſſociated member of the London Conſtitutional Society, in March 1792. He knew the proceedings of the Britiſh Convention, which was held at Edinburgh, as they appeared in the Gazetteer. He did not altogether approve of the proceedings of the Convention, particularly that part relating to a Secret Committee. They had no Secret Committee at Sheffield. He did not hear that a reſolution had been voted at Caſtle Hill, not to petition the Houſe of Commons. There was a great number of people aſſembled there, and he ſtood at the outſide of them, and did not hear it? but, if he had heard it, he might, perhaps, have approved of it. He knew Mr. Yorke. He believed he was not a Sheffield man; but he did not know what brought him to Sheffield, He had frequently heard him, both in public and in private, though he could not ſay he was very intimate with him, or that he entertained exactly the ſame opinions on Parliamentary Reform. He could not recollect the ſpecific differences between him and Mr. Yorke.

Letters had occaſionally paſſed between their Society and the Society at Stockport; and he believed they were aſſociated for the ſame peaceable purpoſes with themſelves. He knew that a motion was made on Caſtle Hill, to addreſs the Houſe of Commons; but he did not know it was made, by contrivance, to be negatived.

Edward

Edward Oakes examined.

He had been a member of the Correſponding Society of Sheffield, ſince the year 1791. Their object was Parliamentary Reform by peaceable means, and no other; and it was with this view that they ſent delegates to Scotland. They had no deſign whatever againſt the King, or the Government of the Country. They had no idea of attacking it, and this he ſwore with a very ſolemn degree of earneſtneſs. He never heard of any propoſition for making pikes, until they had been threatened and attacked by the oppoſite party, and complaints made of it in the Society. Being aſked, What he meant by the oppoſite party? He ſaid, ſome individuals in the town, and not the government or magiſtrates.

Croſs-examined.

He did not know that the Sheffield Society was aſſociated with that of London. Was preſent when they reſolved not to petition parliament any more, finding their former petitions had been rejected; but believes it was their intention to petition his majeſty. He did not know of the letter of the 14th of March, 1762. reſpecting the Rights of Man, though he had entered the Society in the year 1791. But, to account for this, he ſaid, that they entruſted the management of a great part of their affairs to their Committee, who were not acouſtomed to read all their proceedings to the ſociety at large.

[At

[At this time one of the Sheriffs obſerving, or thinking that he obſerved ſome noiſe in the Student's gallery, called to tell them, that if they dsd not pay more reſpect to the Court, he would "turn them all out." He ſaid he had his eyes upon them for ſome time.

The Lord Preſident—"Gentlemen, this is not the firſt time that this has been remarked to me; and I expect from you an example to be ſhewn of good behaviour to others. If you do otherwiſe, you will diſgrace yourſelves, and greatly inſult the Court.

The witneſs then read aloud the letter which was handed to him, mentioning their forming a correſpondence with the London Conſtitutional Society, and alſo the letter from Hardy, which adviſes their diſtributing themſelves into ſmall diviſions, for the more convenient propagation of their principles. He never heard this letter communicated to the Society but cannot ſay that it had not been communicated, as he did not regularly attend their meetings. Does not know Brown, the delegate to the Britiſh Convention, and eidtor of the Patriot; but read ſeveral extracts from that publication, as inſerted in the Sheffield Regiſter.

He then read the reſolutions of the Sheffield Society, offering thanks to Paine for his Book of the Rights of Man, which he ſaid, were circulated by them through the town and its netghbourhood? but that was before the work had been declared a libel. He was aſked,

What

What number of members had they in their ſociety? He ſaid they amounted to ſome hundreds. Why then did they ſay in ſome of their publications, that their numbers exceeded two thouſand? He ſaid, that miſtake might eaſily be committed, as many perſons attended the meetings who were not regularly admitted members. What were they to have done if government attacked them? They would have ſubmitted.

Daniel Stuart examined.

The witneſs, who had been examined before, now produced a Letter, ſigned Aſton, Sheffield—14th May, 1792. The Society of the Friends of the People had, on the 26th of April, publiſhed their declaration, and this letter from Aſton, Preſident of the Sheffield Society, contained a full approbation of it, and expreſſions of attachment to the Conſtitution; and propoſed that the different ſocieties ſhould ſend deputies to London, to co-operate in obtaining a Parliamentary Reform. To this the Friends of the People returned a civil anſwer, encouraging them to proceed in the ſame principles of moderation, obſerving, that Liberty was in little danger from its open and avowed enemies, but may ſuffer much from the indiſcretion of its friends, which their dexterous opponents were careful to avail themſelves of, &c. To this they had a reply from Mr. Aſton, greatly approving of the anſwer he had received.

Mr. Erſkine then read the declaration of the Friends

of the People, which appeared at the time in all the news papers, and obſerved, that the Jury muſt perceive by the ſignitures annexed to it, that the ſubſcribers, though they may poſſibly be deceived, could have no deſign againſt the Conſtitution. He then read over the names of thoſe Noblemen, Members of Parliament, and other Gentlemen, who ſigned the declaration; and produced a ſmile in the Court, by the vivacity with which on coming to the name of the Hon. Thomas Erſkine, M. P. he ſaid, "meaning me, Gentlemen."

Mr. Stuart was then croſs examined by the Attorney General. He ſaid, that on the 24th of May, he took the letter in anſwer to that of Aſton, to Mr. Gray, at the Houſe of Commons, to be ſigned by him, as chairman, and ſent it off by the poſt that evening.

What was Mr. Aſton? A tanner. Was it of his own fancy that he addreſſed him by the title of Eſq? No; it was at the deſire of the Committee. Did the Committee know Aſton's ſituation in life? He believed not at that time. Did he not hear of Aſton's letter of the 26th of May, to the Conſtitutional Society in London, denouncing the moderation of the Friends of the People? No.

It was then obſerved, that as a letter takes two days in its way to Sheffield, by the poſt, this letter to the Conſtitutional Society, of the 24th of May, muſt have been written, on the ſame day on which he received the letter

letter of the Friends of the People, dated the 24th of the ſame month.

Did he know that the Society of Sheffield had twelve members aſſociated to the Conſtitutional Society of London? He did not.

Was Lord Daer a member of your Society? He is.

Did you not know that he was a delegate to the Scotch Convention? Yes.

Does he ſtill remain a member? He does.

Mr. Erſkine—Lord Daer, one of the ſons of Lord Selkirk, was known to be a delegate to the Britiſh Convention, and no motion has in conſequence been made to expel him from the Society. Is not that ſo, Mr. Stuart? It is.

The Attorney General preſſing the witneſs with reſpect to the inconſiſtency of Aſton ſending letters of ſo different a complexion to the Friends of the People, and the Society for Conſtitutional Information, apparently on the ſame day.

Mr. Erſkine, in order to conclude an examination which appeared to him more tedious than intereſting, aſked Mr. Stuart, if he ever knew of a man changing from a Monarchy-man to a Republican, in the interval of one poſt?

The Attorney General ſaid, that he had better aſk him, if he knew a man change from a Reformer to a Traitor, in the ſame poſt.

The Lord Preſident expreſſing his diſapprobation of this kind of retort, the examination of Mr. Stuart was, for the preſent, cloſed.

Mr. Erſkine expreſſed his aſtoniſhment, that his client ſhould be debarred the benefit of evidence of this nature, which had never been withheld on any former occaſion (one inſtance only excepted) the State Trials did not furniſh a precedent; and when he ſtated, that the execrable Jefferies ſat in judgment on that occaſion, it would be ſuperfluous to aſſign any further reaſons. The meaſures of juſtice ought to be the ſame in all countries, and to all perſons.

He ſaid, that for ſome days paſt, he ſaw an oppoſition brewing, which was likely to bring on a debate, owing, in a great degree, to the ſingular analogy of the preſent caſe. He then went into arguments on the analogies of evidence.

The Judges in the Court of King's Bench, on the argument in the caſe of Holt, determined that a publication, in the year 1760, was no defeuce for a ſimilar publication in the year 1794: this however, as a fact was charged, did not bear upon the preſent caſe. Hardy's accuſation was not grounded on any fact, but upon a criminal and treaſonable intention of the mind. He had

had, therefore, a right to call evidence to his opinions and intentions.

The crime of Lord George Gordon reſted principally upon his intention; and though the proſecution was conducted by lawyers of great experience and ability, they ſuffered him (Mr. Erſkine) to call nine or ten witneſſes in, on the ſubject of the diſpoſition of his mind.

The next caſe he cited, was that of Lord Ruſſel, accuſed of compaſſing the King's death, being ſuffered to give the evidence of Dr. Barnet, in favour of his affection to the government.

Henry Corniſh, in the reign of James II. accuſed of compaſſing the King's death, was ſuffered to give evidence of his loyalty.

Sir John Friend was accuſed of compaſſing the life of the Sovereign, and was allowed to give evidence, to ſhew that he expreſſed his deſire of living peaceable under the government, which, however, he did not like.

In all theſe caſes it was apparent, that general character had nothing to do in theſe teſtimonies; the character, in ſuch ſituations, which will operate as evidence, muſt be analogous to the offence.

In

In the 8th of William and Mary, we find Cook admitted to give ſimilar evidence on a ſimilar charge.

Donelly, a waterman, belonging to Queen Anne, was found in the act of pulling down meeting-houſes, which by the ſtatute, is made conſtructive treaſon, and evidence was admitted of his converſation, to prove him friendly to government. He, therefore, aſked no more now for Hardy, than what was granted to others in ſimular ſituations before him; and even without this, he may ſtand upon the rules of evidence.

Mr. Gibbs ſaid, it was laid down by Lord Hales, that an action itſelf indifferent, may, by attendant circumſtances, be converted into an overt act of Treaſon; and when the Crown had an oppertunity of ranſacking the whole of a mans life and converſation, he ſhould at leaſt have the means of reburting that evidence by other evidence of his former converſation.

The Solicitor General ſaid a few words. In alluſion to one of the caſes quoted by Mr. Erſkine, he denied ſome points which that gentleman had aſſerted. Mr. Solicitor ſaid, he ſuppoſed he had not underſtood it.

Mr. Erſkine—You certainly did not underſtand it.

This obſervation made in a particalar tone of voice, nettled Mr. Solicitor. He aſſerted, he knew his duty in the

the civil and criminal law of the country, as well as the learned Gentleman did, and he was as determined to performit. He then offered a few arguments againſt the admiſſibility of Mr. Stuart's evidence.

Mr. Erſkine agreed with, and ſubmitted to the deciſion of the Court, He noticed the improper warmth of the Solicitor General, to whom he would have been the firſt to make a proper ſatisfaction, if he had given offence.

From the langurge that was ſometimes made uſe of, even between himſelf and his learned friend, who were on terms of the moſt perfect intimacy and friendſhip, it might be ſeen how little confidence there was to be placed in words ſpoken in heat, whether they were uttered in a court of Juſtice, or a diviſion of the London Correſponding Society, by Mr. Yorke, or Mr. Solicitor General.

The Preſident of the Commiſſion interrupted Mr. Erſkine. He mentioned the ſituation of the Jury, who were ſuffering by every moment's unneceſſary delay.

Mr. Stuart was then aſked, by permiſſion of the Court, whether Mr. Hardy ever mentioned to him the plan of reform he meant to purſue? He had always adhered ſtrictly and ſtrongly to the plan propoſed by the Duke of Richmond.

Have

Have you had frequent opportunities of converſing with the priſoner? Very frequent. I never was very much in public company with him; he ſupped with me one night, along with another gentlemen; we had a long converſation on the ſubject of parliamentary reform, and the only point on which we differed was the propriety of univerſal ſuffrage.

What is your opinion of the priſoner's character for ſincerity and truth?—I alwavs thought him to be a civil, honeſt, good man.

Mr. Ferguſon and Mr. Andrew Sterling were next called, to prove the tranſactions that took place at a meeting held in Scotland for the reform of the Scotch boroughs. This evidence was objected to by one of the Crown lawyers.

The Attorney General had no objection to conſent that it might be read.

The Preſident. But the court has an objection to it. The tranſactions to which theſe gentlemen are called to ſpeak have no manner of connection with the facts alledged againſt the priſoner at the bar. Evidence relative to the Iriſh aſſociations had been received, becauſe the witneſſes had ſpoken with regard to them and ſworn that the reform they intended was the ſame with that propoſed by the Duke of Richmond.

William

William Towſnap ſaid, he was a member of the Society of Sheffield, very nearly from the firſt to the laſt; the only object they had in view, was a reform in the Houſe of Commons? and the way they intended to bring it about was by petition. They proceeded on the plan of the Duke of Richmond; that was the idea that he formed of the buſineſs; he had no idea that the object of the ſociety was different from his own; and from the knowledge he had of the Society, he really believed they had the ſame ends in view that he had, that he ſolemnly believed to be the general object of their ſociety. If he had had the leaſt idea that they intended to ſubvert the authority of Government, he ſhould not have belonged to them, or if he had diſcovered it ſince he became a member, he would have withdrawn himſelf.

With reſpect to the pikes, he ſaid he was almoſt an entire ſtranger to that buſineſs; if it had been the object of the ſociety to provide arms, he muſt have heard of it, for he was in the committee, and it was a queſtion never agitated in the committee, to provide arms againſt the government; he never heard of ſuch a thing, either before or ſince. He had no idea, for his own part, of any thing but a Reform in the Commons Houſe of Parliament, and he really thought and hoped that was the view of the ſociety.

On his croſs examination he ſaid, he had continued in the ſociety for two or three years. That it was their object all along to petition. That he was at Caſ-

Hill, at the time of the meeting there; the propoſition for petitioning parliament was negatived; there was a very large concourſe of people, but he could not ſay exactly what was done, for he could not get near enough to hear what was going forward; he might ſee an account of the proceedings afterwards in Gales's paper, he believed the queſtion for petitioning parliament again was carried in the negative; he had not heard any voice in the affirmative, and he had not heard of a ſingle individual who had withdrawn himſelf, in conſequence of the negative to petitioning parliament. He had ſome recollection that the proceedings of the convention were approved of by their Society.

He did not know that the queſtion at Caſtle-hill was put for the purpoſe of being negatived; that was a matter which he could not ſpeak of. After that propoſition was negatived, it was ſaid to be intended to petition his Majeſty.

With regard to Mr. Yorke, he ſaid he had ſeen him at Sheffield, but never ſpoke to him; and that he did not know of any pikes being prepared under the direction of Mr. Yorke. He ſaid he had heard that Davidſon had written a letter to Hardy, after he had been taken up. He had heard of thoſe defending themſelves againſt what they called the oppoſition party.

Being examined again by Mr. Erſkine, he ſaid, if there had been a propoſition for arming, he muſt have heard of it; there could not have been any propoſition

of

of that kind; he muſt have known it if they had any idea of arming; they muſt have had a great number indeed of them.

The petition that was negatived at the meeting at Caſtle-hill, was the petition of the people of Sheffield. They never negatived the idea of preſenting a petition to Parliament, that might be agreed on by the delegates of the Convention.

Edward Smith, cutler, in Sheffield, ſaid, he was a member of the Society ever ſince the year 1791, up to the time when this buſineſs happened; the object of the ſociety was to obtain a Parliamentary Reform, upon the plan of the Duke of Richmond and Mr. Pitt.

They had peruſed the Duke of Richmond's letter to Colonel Sharman, and that contained their object for every thing. When they talked of the Rights of Man, he underſtood equal repreſentation in Parliament; they did not mean any thing about France. If other people's object had been different from his, and he had known it, he would not have been in the ſociety a ſingle day. He never heard it in the ſociety as a thing intended to attack the King, or any of his Prerogatives, but much the other way. They never wanted to touch the Crown. Their objects were the glorious advantages we obtained in 1688; but he never heard that their object was to be accompliſhed by force.

He never heard of arms until a paper was thrown out into the ſtreets, and what was publiſhed in the Courant, calling upon the people of Sheffield to deſtroy thoſe whoſe opinions were different from themſelves; it was that which produced the arms among ſome of the ſociety. The party who oppoſed the ſociety, when any good news arrived from the Continent, came out and fired piſtols in the ſtreets, and one of them fired at his window; the ſociety did not aſſemble to damp their joy, or ever gave them any offence of any kind; notwithſtanding all this the ſociety never regularly armed; if they had wiſhed it, they might have had ten thouſand pikes in one day. They never had any idea but that of purſuing their means by peaceable and orderly proceedings, according to the law of the land, he did not exactly know what ſome men might mean by calling him a Democrat, but he underſtood that it meant a perſon who wanted to overturn the Houſe of Commons, They never had any idea of touching their ſovereign in any ſhape.

Croſs Examined.

Mr. Garrow, in his Croſs Examination, availed himſelf much of the ignorance of this old man. Though he had no muſket nor pike for his own defence, he applied to no magiſtrate for protection againſt the threats and ill uſage of his perſecutors, nor did he make any application to that effect to the Secretary of State. He aknowledged, though rather reluctantly, that his ſociety had diſtributed hand bills, exhorting the people

in

in the ſame words as thoſe of the other bill of which he complained, to arm for the protection of their property.

Of the plan about which he was ſo ſanguine an advocate, he appeared to have very little conception. The Duke of Richmonds's plan, he ſaid, was a free repreſentation; and Mr. Pitt's plan was, that "every man ſhould have his voice."

Being aſked if he had not a cheap edition of Tom Paine's book of the Rights of Man? Aye! ſaid he, and I have ſeen the other too. You of courſe thought it a very excellent book? Aye! that I did. I liked it very well. Where there not many thouſands of that work circulated amang the cutlers by a ſubſcription of the Society; That and ſome few other books were circulated by ſubſcription. This ſubſcription was only amongſt a few friends.

The Counſel then read the paſſage againſt heritable thrones, where the people were repreſented as flocks and herds, and aſked the witneſs if that was a paſſage very favourable to Kings? He anſwered, that he believed Paine was no great friend to Kings, but that neither he nor his Society ever minded theſe paſſages about Kings: all they wiſhed was a Parliamentary Reform. Several other paſſages were read, to which the anſwers were ſo ſtupid, that we ſhall not tire our readers with them.

He

He was at the Meeting at Caſtle hill: did not know that the motion for petitioning Parliament was only put that it might be negatived; the queſtion was carried by a ſhew of hands: did not know that the motion was ſeconded, or that any other hand was held up for it but that of the perſons who made it. He was alſo at the celebration of the Faſt Day, and never heard that his Society had ſent any Addreſs to France. Theſe witneſſes having ſo frequently repeated, that their object was a Reform in Parliament, according to the Duke of Richmond's plan, Mr. Erſkine thought it would be proper to give that plan in evidence, and the next witneſs called was

His Grace of Richmond.

Mr. Erſkine, handing him a copy of the letter to Col. Sharman, will your Grace do me the honour to ſay, whether this be a copy of the letter you addreſſed to Mr. Sharman in the year 1780? It is very difficult for me to tell whether the paper now put into my hand is the ſame as the letter I wrote to Mr. Sharman or not. I know that there was a mutilated edition of it publiſhed at the time.

Mr. Erſkine—will your Grace have the goodneſs to look over it, and aſcertain whether it be a genuine copy or not.

The Duke proceeding to look over it, the Lord Preſident aſked, whether he would wiſh to retire while he read it in another room? I believe I may ſpare Mr. Erſkine

Erſkine ſome trouble, by giving him a correct copy which I have brought in my pocket.

This was immediately agreed to, and the letter to Col. Sharman, which had been in Court, was read by the Clerk of the Arraigns, while Mr. Garrow and others looked over the Duke's copy, both of which exactly agreed.

His Grace then aſcertained that to be the letter which he addreſſed to Col. Sharman.

Mr. Erſkine wiſhing Col. Sharman's letter to be read, aſked the Duke of Richmond whether that letter was not written in anſwer to one from Col. Sharman, atthr the reſolutions made by the Iriſh volunteers, aſſembled at Liſburne? and whether Col. Sharman's letter and his were not bound up and publiſhecl together.

The Duke replied, that he wrote the letter in anſwer to one from Col. Sharman, and they were bound together in the ſame manner in which they now appeared.

The Attorney General objected to reading of Col. Sharman's letter, as the Duke of Richmond's only was referred to in evidence before the Court.

Mr. Erſkine ſaid, he was ready to argue that point, but as it was not very material, he would neither exhauſt his ſtrength, of which he retained but very little, nor occupy unneceſſarily the time of the court.

After

After the Duke of Richmond's letter was read, Mr. Erſkine offered a piece of evidence on the part of the priſoner which was oppoſed by Mr. Attorney General.

Mr. Erſkine wiſhed to produce witneſſes to prove what they had heard the priſoner at the bar declare in converſation, with reſpect to a Reform in Parliament, and what his ſentiments were with regard to a Convention of the People, &c.

Joſeph Strutt was then called. He had belonged to a Society inſtituted for the purpoſe of obtaining a Reform in Parliament.

Mr. Erſkine aſked him, Had the Society any other object? No.

Did it mediate any thing againſt the other two branches of the legiſlature? It certainly did not. Since the rejection of the petition to the Houſe of Commons, I believe the Society has not aſſembled more than once.

Mr. Erſkine propoſed next to give in evidence, the reſolutions of the Aſſociation at the Thatched Houſe Tavern, in 1789.

The Lord Preſident—What would you ſay, if we were of opinion that theſe Aſſociations amounted to High

High Treaſon? My Lord, I can hardly conceive it poſſible, that ſome of the greateſt characters in the kingdom, and ſome of the greateſt favourites of the King, ſhould have been guilty of High Treaſon.

Preſident—We knew nothing of the circumſtances of thoſe aſſociations.

Mr. Erſkine ſaid, he was ready to ſtate them to his Lordſhips.

He was, however, over-ruled.

Richard Brindſley Sheridan, Eſq. was the next witneſs for the priſoner.

Mr. Erſkine ſtated to the Court, that he called this gentlemen to prove, that Hardy had offered all his papers to be laid before Parliament in the year 1793.

Queſtion to Mr. Sheridan.—Did you ever ſee the priſoner? Yes.

At what time? the firſt time was in the month of March 1793. I will ſtate, as ſhortly as poſſible, how the circumſtance happened. I had given notice in the Houſe of Commons, of a motion for a Committee of that Houſe, to enquire into the ſeditious practices that were ſaid to exiſt in ſeveral Societies in this metropolis.

Was the Scotch Convention ſitting at that time? I do not perfectly recollect. Having given the notice, I thought it was my duty to collect all the information poſſible on the ſubject. I was rather unbelieving with reſpect to what I had heard, of the extent to which ſeditious practices were carried in thoſe Societies. By the advice of a gentleman of my acquaintance, I ſent for Mr. Hardy. He immediately came to me. I ſhewed him the book which was circulated among the members of the two Houſes of Parliament, giving an account of the proceedings of thoſe Societies. He obſerved, that, in many things, Government had received very correct intelligence, particularly with reſpect to the number of the diviſions, and the places of their aſſembling: but he complained, that their objects and principles had been greatly miſtated, and miſrepreſented.

Did he, Sir, declare, what their real object was? He declared, that their whole object was to obtain, by peaceable means, a Parliamentary Reform, on the plan of the Duke of Richmond. Upon my interrogating him (I do not mean that I conſidered him under any obligation to anſwer) he told me, the Societies did not meet at the ſame places where they uſed to aſſemble. As they conſiſted chiefly of perſons who could not afford to ſpend much, the keepers of public houſes had been eaſily induced to diſmiſs them. I aſked Mr. Hardy, if the Societies continued to meet any where? he anſwered, Yes; and he had no objection to give me a liſt of the private houſes where they had held their meetings. I took down the names of ſeveral of theſe places.

Croſs-examined by the Attorney General.

Did Mr. Hardy ever ſhew you any book, journal, or books? Mr. Hardy did not ſhew me any journal, or book or books. He offered generally to give me all the information reſpecting the Society he could. He ſaid, had been greatly calumniated by the publications of government.

Mr. Francis was next called.

Do you know the Priſoner? I do; but I never ſaw him more than once. On or before the 3d of May, 1793, Mr. Hardy ſent to me, requeſting me to preſent to the Houſe of Commons, a petition for a Parliamentary Reform; and that I would permit Mr. Margarot and two of the delegates, whoſe names I forgot, to come to my houſe on the ſubject. They came; and, as the form of the petition ſeemed perfectly reſpectful, I told them I would preſent it; and informed them, at the ſame time, that I was perfectly averſe to its prayer. Hardy appeared to me to be a remarkable quiet, temperate man. I was ſurpriſed at the readineſs of their arguments in defence of Univerſal Suffrage,

Margarot ſaid, I need not be ſurpriſed, for thy had learnt theſe arguments from the Duke of Richmond.

I mentioned, that I thought it would have been better to leave the mode of redreſs, as in other caſes,

to the wiſdom of Parliament. They ſaid, they were ſorry they had not known my objection ſooner; but it was then impoſſible to alter the petition, as the names were ſubſcribed, and there would not be time enough to prepare a new petition before the 6th of May, when Mr. Grey was to make his motion.

They all ſhewed remarkable readineſs to hear reaſonable arguments and objections.

On Croſs-examination, Mr. Francis ſaid, the delegates ſhewed great anxiety about the fate of their petition. They had forwarded it to Mr. Fox, who had refuſed to preſent it. Now they adhered to their original approbation of Univerſal Suffrage, they never ſaid, that they would accept of nothing leſs than Univerſal Suffrage.

The letter of thanks ſent by the London Correſponding Society to Mr. Francis, with that gentleman's anſwer, were read. He ſaid, he thought they were much miſled, but he did not believe that they had any other objects than thoſe which they profeſſed.

Lord Lauderdale was next examined.

He ſaid he had received a letter from the Society of the Friends of the People in the ſuburbs of Edinburgh, requeſting him to become a delegate to the Scotch Convention. He had ſeen Skirving, who had urged him to

to accept the offer. He ſaid that his (Lord Lauderdale's) coming among them, would prevent them from committing thoſe irregularities and informalities, which they might otherwiſe fall into; he heard nothing among them injurious to the Crown, or the Houſe of Lords. Their language was, to acquire, by peaceable means, a thorough Reform in Parliament.

The evidence on both ſides being concluded, Chief Juſtice Ayre proceeded to ſum up the whole; after which, he addreſſed the Jury in the following manner:

"Gentlemen of the Jury,

"I have given you the charge along with the evidence, in order that you may be able to aſcertain the amount of the whole facts, and ſee how far they go to eſtabliſh what is laid in the indictment. On the other hand, you are to attend with favour to the arguments urged, and the evidence brought forward, in behalf of the priſoner, and to weigh well whatever makes for the defence. The written evidence againſt him has not been attempted to be diſputed, nor can it indeed be controverted.

From that evidence it appears, that the priſoner was not merely a perſon who acted under the direction of others, and ſigned papers as Secretary, without adverting to their contents, or being able to comprehend their meaning, but that he was himſelf a principal in the tranſ-

tranſactions of thoſe Societies, and a deſigner, promoter, and inventor of many of the proceedings which had come out in evidence, He cannot, therefore ſet up a defence upon any ground of that ſort.

The counſel for the priſoner attempted to vindicate the temper and views of the Sheffield Society, on the ground of the letters which they had written to the Friends of the People. But if theſe are taken along with their letter, dated the 26th of May 1792, addreſſed to the Correſponding Society, it will then be perceived how far they were ſincere in their firſt profeſſions, or, if they really were ſincere, how far they had afterwards adhered to them.

The priſoner's counſel had alſo made ſeveral fair and weighty obſervations on the credit due to witneſſes, who had introduced themſelves into theſe Societies for the purpoſe of giving information of their proceedings, and of the ſubject-matter of their teſtimony, particularly as it related to the preparation of arms. I have no heſitation to admit, that if the queſtion of criminality depended ſolely on the proof, brought with reſpect to arms, though there might be ſtrong cauſe of ſuſpicion, yet that would not be a ſufficient ground to impute to thoſe Societies all that miſchief, which might, in the preſent inſtance, be apprehended to ariſe from their deſigns.

The counſel for the defence ſtate the priſoner to be a plain

a plain, honeſt man. orderly in his demeanour, and moderate in his temper, having one great object ſtrongly fixed on his mind, namely, a Reform in the Commons Houſe of Parliament, upon the principles of Univerſal Suffrage and Annual Election.

Theſe principles, they contend, he borrowed from a work of the Duke of Richmond, in which they are inculcated, and that to carry theſe principles into effect all his meaſures were directed; that the very idea of a convention is taken from the ſame work of his Grace, which certainly contains a ſtrong alluſion to the People meeting in a body, in order to procure the object which he there recommends.

The priſoner, they alledge, conceived that a petition to parliament, coming from a large body, would have more weight than petitions from individuals or ſmaller bodies, and that he had no intention to uſe a Convention for any other purpoſe than that which is above ſtated; that he had not the ſmalleſt idea, by means of that Convention, to interfere with the priviledges of the Houſe of Peers, or the power and dignity of the Crown. They contend, from the ſtatement of the force, ſaid to be prepared, that there could be no ſuch intention as to overturn the Couſtitution; for if the means, as in all caſes, are to be proportioned to the end, ſuch an attempt in the circumſtances of theſe Societies, was not only highly improbable, but altogether impoſſible.

They

They further argue, that if the Convention propoſed to be aſſembled was of the ſame nature with the Britiſh Convention that had been already held at Edinburgh, it could not be treaſonable, as ſome of the delegates to that Convention had been tried and convicted only upon a charge of miſdemeanour.

If treaſon, therefore, did not attach in the one inſtance neither could it in the other; the crime of only concerting to hold a Convention, was certainly leſs than that of having actually held one: whatever, may be the inflammatory tendency of the papers, or whatever the violence of expreſſions adopted in them, ſtill the guilt of thoſe Societies, cannot amount to High Treaſon.

The priſoner has appealed to ſeveral members of the ſocieties, with whom he was connected, for the ſoundneſs of his principles and of their own—their attachment to the Conſtitution, and their intention to proceed towards their object in a legal and peaceable manner.

A cloud of reſpectable witneſſes have come forward to his private character, to teſtify, that he is a peaceable ſedate, orderly, and religious man, having one great idea relative to a Reform of Parliament. It appears alſo, from the evidence of Mr. Sheridan, that he made a propoſition to him to give up all his papers and correſpondence, for the inſpection of a committee of the Houſe of Commons; a circumſtance which would ſeem to imply a ſtrong conſciouſneſs of innocent intentions.

Mr.

Mr. Francis has ſtated, that he waited on him with a petition from his ſociety, addreſſed to the Houſe of Commons, on the ſubject of a Parliamentary Reform; and mentions that his conduct on that occaſion was ſuch as was calculated, not only to impreſs him with a favourable opinion of his general character, but of the moderation of his political ſentiments, and his intentions to follow them out in a peaceable manner. In alluding to the work of the Duke of Richmond, there is a circumſtance which I forgot to mention. At the ſame time with that work there was brought forward in evidence by the priſoner's counſel, a copy of a proteſt, ſigned by ſeveral noble Lords, and ſtating the ſame ſentiments with reſpect to the rights of the People to meet, and deliberate on certain objects. This paper, falling into the hands of an ignorant man, and an enthuſiaſt, if ever it fell into the hands of a perſon of ſuch a character, might, no doubt, have a tendency to meſlead him, and diſpoſe him to the proſecution of violent meaſures. But theſe pieces of evidence applied only to one part of the caſe. It certainly never would be imputed to that noble perſon the Duke of Richmond, and to the other noble Lords, who ſigned the proteſt, that they intended, by the publication of their ſentiments, to overturn the eſtabliſhed Government of the country, and introduce, in its ſtead, a Democracy.

It never could be contended, that their views went ſo far as thoſe which have been proved upon ſome of the Societies. I conceded to the priſoner that he might, in the firſt inſtance, have ſet out with a ſincere profeſſion

of the Duke of Richmond's principles, and a determined reſolution to confine himſelf to the object of univerſal Suffrage; but whether he has not departed from thoſe principles, and gone beyond that object, is to be made out from the evidence, and is matter for you to determine.

The reply goes to impeach the credit due to the evidence, from the members of the Sheffield Society. The characters of thoſe members are in ſome degree implicated with that of the priſoner; and it is to be conſidered what degree of weight ought to be given to the teſtimony of a man called upon to ſwear to his own loyalty, and the ſincerity of his attachment to the Conſtitution, more particularly if his conduct be ſuch as has been charged with reſpect to thoſe witneſſes, as to beget a ſuſpicion that he is actuated by very indifferent ſentiments; in this caſe, there is "proteſtatio contra factum." His conduct is the reverſe of his ſentiments; and, therefore, juſtly affords ground for diſtruſt.

The reply refers alſo to the written evidence, as a proof of the duplicity of the priſoner. One inſtance of this is, his conduct with reſpect to Mr. Francis, upon whom he waited, in order to requeſt him to preſent a petition of his ſociety for a Parliamentary Reform, and whom he induced to believe, that he was really anxious to obtain that object; though, from different papers, it appeared that he had no ſincere deſire for that purpoſe but was only deſirous, by bringing forward this petition, to agitate the public mind on this ſubject.

Another

Another remark on the reply goes directly to his character; that though he was deſcribed as a ſedate, moderate, and religious man, it was evident that he was ſtrongly tinctured with enthuſiaſm; a circumſtance which, notwithſtanding the other parts of his conduct, makes it ſtill highly probable that he might be concerned in the attempts charged againſt him.

And an inſtance was quoted, in the caſe of the Fifth Monarchy Men, where a charge of High Treaſon might be founded againſt them on the expreſs ground of their religion. It is to be remarked, that the particular acts done by this man, are not contradicted by any of his own witneſſes.

They were certainly ſuch as are totally inconſiſtent with the idea of only effecting a Reform in the Commons Houſe of Parliament; they are ſuch as are conſiſtent with the other idea of ſubverting the eſtabliſhed Conſtitution, by introducing, in its ſtead, a Repreſentative Government of the People.

Gentlemen of the Jury.

Upon all this ſtatement, you are now to exerciſe your own judgment; and, in doing ſo, you will pay no more attention to what I have ſaid, except ſo far as it may be ſupported by the facts of the caſe, and lead you to the principal points of evidence brought, both for the proſecution, and for the priſoner. The Jury are in no caſe bound to attend to any opinion, except their own, in

forming their deciſion on the general queſtion of guilt or innocence.

Every verdict ought to be the Jury's own verdict, more particularly in a caſe of ſuch magnitude as the preſent, to which the eye of the public are turned, in order that the country may be ſatisfied that you, as you are bound by your oath, have made a true deliverance. I am ſorry to remark, that, during the courſe of this trial, the dignity of a Court of Juſtice has, in conſequence of conduct that has taken place, both within and without doors, been, in more inſtances than one, groſsly violated. What ſuch a conduct can mean, except from perſons who are deſirous to diſſolve all the ties of Government, and deſtroy all reverence for authority, I cannot poſſibly underſtand; and, I truſt, I ſhall not again witneſs a repetition of ſuch a conduct, either in this, or in any other caſe, in which the public juſtice may be called upon to determine.

Gentlemen, you will now conſider of your verdict.

The Jury, before withdrawing, aſked for a copy of the indictment.

Chief Juſtice Eyre—I ſee no objection to letting you have a copy of the indictment, although it is not quite regular, provided it be done by the conſent of the parties.

No objection was made, and a copy of the indictment was handed to the Jury.

Chief

Chief Juſtice Eyre—Gentlemen of the Jury, it is proper to inform you, that, after you withdraw, you can be allowed no refreſhment. If you wiſh for any refreſhment, now is the time to take it.

The Jury—My Lord, we thank you, but we ſhall have occaſion for no refreſhment.

At half an hour paſt twelve o'clock the Jury withdrew; and at half paſt three, returned a verdict of

"NOT GUILTY."

The Lord Preſident then thanked the Jury for their diligent attendance on ſo long and arduous a trial; and gave directions that the priſoner be immediately diſcharged.

Mr. Hardy then thanked the Jury for the verdict they had given, both on behalf of himſelf, and of all his fellow ſubjects.

The populace, who, notwithſtanding the wetneſs of the day, filled the ſtreets adjacent to the Court Houſe, received the news of his acquittal with the loudeſt acclamations of joy. And after he was diſcharged, they followed the coach which conveyed him to his lodgings, and taking the horſes from it, drew him through ſeveral parts of the town.

In pronouncing the verdict, the Foreman was ſo overcome, that he was ſcarcely audible, and literally fainted away.

The

The momentous acquittal of Mr. Hardy is a ſubject that will ever be equally dear to the feelings, and memorable in the recollection of every individual in the kingdom.

When perſons with the moſt ardent attachment to the conſtitution are liable to ſuffer the ignomy and hazard of a proſecution for High Treaſon; how much are they to be congratulated in finding their innocence ſecure in the ſanctuary of National Juſtice! However the ſervants of the crown are bound by their duty to their King and their Country, to exert every vigilance to preſerve the community from the ſecret machinations or open outrages of the intriguing, ambitious, or deſperate, yet the people have now the ſatisfaction of knowing they are ſecured from the errors of zeal for exemplary puniſhments.



FINIS.